

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53864-2021 (O&M)
Reserved on: 17.03.2022
Pronounced on: 20.04.2022

Paramjit Singh @ Prince ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Arjun Veer Sharma, Advocate,
for the petitioner.

Mr. Harsimar Singh Sitta, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
174	31.12.2020	Special Task Force, Phase-4. Mohali, District SAS Nagar	21 and 29 of NDPS Act

1. The petitioner, incarcerating upon his arrest for possessing a commercial quantity of heroin, in violation of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act), has come up before this Court under Section 439 of Cr.P.C, seeking bail.
2. In paragraph 10 of the petition, it is declared that the accused has no criminal history.
3. Ld. Counsel for the petitioner contends that the co-accused stands released on bail by this court, and the petitioner is also entitled to bail on the grounds of parity.
4. While opposing the bail, the contention on behalf of the State is that drug menace is rapidly increasing.

REASONING:

5. As per the prosecution's case, after the apprehension of the petitioner and her companion on suspicion, the police officials associated a Dy. SP and after affording an option under section 50 of NDPS Act, the search was conducted in the presence of Dy. SP, a Gazetted officer.

CRM-M-53864-2021 (O&M)

6. The substance involved in the present case is Heroin [Diacetyl morphine], and weighs 405 grams. The entry no. 56 of the table specifying small and commercial quantities, specifies the quantity greater than 250 grams as commercial quantity and lesser than 5 grams as small.

7. This court had granted bail to the co-accused, who was the female pillion rider, whereas the heroin was recovered from the Aactiva, being driven by the petitioner. Thus, prima facie, it was the petitioner who was in exclusive and conscious possession and as such the petitioner cannot claim bail on parity.

8. The stand that the accused is in custody for sufficient time is also not a legal ground to overcome the rigors of S. 37 of the NDPS Act at this stage.

9. The grounds taken in the bail petition do not shift the burden placed by the legislature on the accused under S. 37 of the NDPS Act. The petitioner has not stated anything to discharge the burden put by the stringent conditions placed in the statute by the legislature under section 37 of the NDPS Act. Thus, the petitioner has failed to make a case for bail at this stage.

10. In the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for bail at this stage. However, it shall be open for the petitioners to file fresh bail applications in changed circumstances or after recording the statements of witnesses other than formal witnesses, whichever is earlier.

11. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition dismissed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

20.04.2022
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.