

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53295-2021
Date of decision: 14.03.2022

Baljit Singh alias Bhutto

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Monty Goyal, Advocate
for the petitioner.

Mr. Harsimar Singh Sitta, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
63	02.04.2021	Dehlon, District Ludhiana	15 NDPS Act

1. The petitioner, incarcerated upon his arrest has come up before this Court under Section 439 CrPC, for possessing a commercial quantity of poppy husk in violation of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act), seeking bail.
2. In paragraph 11 of the petition, it is declared that the accused has no criminal history.
3. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. While opposing the bail, the contention on behalf of the State is that drug menace is rapidly increasing.

REASONING:

5. The quantity allegedly involved is 150 kg of poppy husk and 150 grams of opium. Poppy husk finds mentioned at entry no. 110 of the table specifying small and commercial quantities, as per which the quantity greater than 50 kg falls in commercial quantity and lesser than 1 kg as small. Thus, the quantity allegedly involved in this case

is commercial. Given this, the rigours of S. 37 of the NDPS Act apply in the present case. The burden is on the petitioner to satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act.

6. A perusal of the petition does not satisfy the first condition of section 37 of NDPS Act, placed in the statute book by the legislature.

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

8. 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 rigours of S. 37 of the NDPS Act. Thus, the petitioner has failed to make out a case for bail at this stage.

9. 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. The dismissal of this petition shall not come in the way while considering the fresh petition(s).

10. 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

March 14, 2022
AK

Whether speaking/reasoned:
Whether reportable:

Yes
No.