

CRM-M-47441-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47441-2022

Reserved on: 19.01.2023
Pronounced on: 09.02.2023

Kirandeep Ram alias Karna

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Kamal Narula, Advocate
for the petitioner(s).

Mr. Virat Rana, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
109	13.7.2022	Kabarwala, District Sri Muktsar Sahib	21(a) and 22(b) NDPS Act

1. The petitioner incarcerated for violating the above-mentioned provisions of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act) per the FIR captioned above, on the allegations of jointly possessing along with his two accomplices, 3 grams of heroin and 250 tablets allegedly containing Tramadol, which the petitioner claims to fall under intermediate quantity and the State could not dispute at this stage, has come up before this Court under Section 439 CrPC seeking bail on the ground that the quantity of contraband is less than commercial and rigours of S. 37 of NDPS Act do not apply.

2. In paragraph 13 of the bail application, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1.	150	2021	21 NDPS Act	Kabarwala, District Sri Muktsar Sahib
2.	218	2020	21(b) NDPS Act	Kabarwala, District Sri Muktsar Sahib

3. Petitioner's counsel prays for bail by imposing any stringent conditions. The petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. While opposing the bail, the State contends that given the criminal past, the accused is likely to indulge in crime once released on bail.

5. The petitioner was arrested on 13-07-2022, and the police report under section 173 CrPC stands filed. The accused receives copies of the Police report and the copies of the statements of witnesses free of cost. It is not the case of the appellant that she has not received the report of FSL under section 207 CrPC. Despite that, the copy of the police report under section 173 CrPC has not been annexed with the appeal. Furthermore, had the accused not received the documents in compliance with Section 207 CrPC, this Court would have asked the respondent to produce the same.

6. The petitioner has similar criminal antecedents/allegations in the case which are serious, and the offence heinous. To decide the bail petition on merits would require this Court to peruse the evidence collected by the prosecution. The petitioner has not attached the copy of FSL report nor does he say that the Trial Court did not supply the same to him under Section 207 CrPC. No ground pleaded, or explanation was offered regarding reasons that constrained the petitioner from annexing those while filing the petition. Thus, the Court cannot decide this bail petition, without ascertaining that whether the quantity is commercial or intermediate.

7. Given above, in the facts and circumstances peculiar to this case, the petition is closed. **However, the petitioner shall be at liberty to file a new petition on the same cause of action by annexing a copy of the FSL report and if not supplied, specially mentioning this fact also and the details of quantities involved in previous cases.**

8. 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, with liberty reserved. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

February 09, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No