

263

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-47779-2023 (O&M)
Date of decision : 09.11.2023**

Kashmir Chand

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Amarjit Singh Ahluwalia, Advocate,
for the petitioner.

Mr. Jaiteshwar S. Bhandari, AAG, Punjab.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of bail pending trial to the petitioner in FIR No.42 dated 30.03.2023, under Sections 22 & 29 of the Narcotic Drugs and Psychotropic Substances, Act, 1985 (*for short 'NDPS Act'*), registered at Police Station Kotwali Nabha, District Patiala.

2. Allegations are that the petitioner was apprehended while in possession of 104 strips, containing 10 tablets each (total 1040 tablets) of Tramadol Hydrochloride.

3. Contends that alleged recovery was not effected from the conscious possession of the petitioner and he is neither owner; nor driver of the motor-cycle in question, rather a pillion rider. After presentation of challan, charges were framed way back; but out of total 26 PWs, none has been examined till date.

4. *Per contra*, learned State counsel, on instructions, submits that there is heavy recovery of contraband alleged in this case, thus petition be dismissed.
5. Heard both sides and perused the paper-book.
6. As per prosecution case, recovery alleged against the petitioner is 1040 tablets of Tramadol Hydrochloride, which is commercial in nature. Apart that, from co-accused also, 69500 tablets were recovered. As per learned State counsel, FSL report has already been received, but *challan* is yet to be presented.
7. In such a scenario and particularly the rigors of Section 37 of the NDPS Act, this Court is not inclined to accept the prayer of petitioner.
8. As a result thereof, there is no option except to dismiss the petition.
9. Ordered accordingly.
10. It is clarified that observations made above shall not be construed as an expression of opinion on merits of the controversy, in any manner.
11. Pending application(s), if any, shall also stand disposed off.

09.11.2023
atulsethi

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No