

CRM-M-34292-2024
DECIDED ON: 23.08.2024

.....PETITIONER

STATE OF HARYANA

.....RESPONDENT

Present: Mr. Abhishek Sindhvani, Advocate for the petitioner.

Mr. B.S Virk, Senior DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 19, dated 09.02.2023, under Sections 22(c), 27-A of NDPS Act, 1985 and Section 201 of IPC, 1860 registered at Police Station Uchana, District Jind.
2. Learned counsel for the petitioner argues that the petitioner has been wrongly implicated in the instant case and alleged recovery of 3500 tablets of Tramadol Hydrochloride weighing 610 grms and 4200 tablets of Alprazolam weighing 462 grams was effected from the co-accused and no recovery was made from the present petitioner and he has been merely roped on the basis of disclosure statement.
3. Notice of motion.
4. On the asking of Court, Mr. B.S Virk, DAG Haryana, accepts notice on behalf of respondent-State and submits that the role of the present petitioner has come out to be that of a supplier and moreover, alleged



contraband recovered in the present case falls under the commercial quantity, therefore, the rigorous of Section 37 of NDPS Act would come into play and on this ground states that the petitioner is not entitled to the released on regular bail.

5. Having heard learned counsel for both the parties.

6. Drug addiction is a societal scourge that devastates individuals and communities, while drug trafficking has far-reaching consequences that undermine economies and fuel illicit activities, including terrorism. The use of narcotic drugs destroys lives, eroding an individual's humanity and reducing them to a mere shadow of their former self. As the grip of addiction tightens, users sacrifice their dignity, well-being, and ultimately, their very existence. It is the legislature's imperative to mitigate the harmful effects of drugs and substances on society, and to protect citizens from the ravages of addiction and the illicit drug trade.

7. It's important to remember that while an accused in a murder case may take the life of one or two individuals, those involved in narcotics trafficking are responsible for causing the deaths of numerous innocent young people who are vulnerable to addiction. The harmful effects of drug trafficking have a devastating impact on society, making those involved a significant threat to public safety. Even if released temporarily, it's likely that they will continue their illegal activities, prioritizing profits over human life and perpetuating a dangerous cycle of addiction and exploitation. In the present prevailing scenario, the drug trafficking, trading and its use has acquired dimensions of an epidemic which not only effects the economic policies of the State but corrupts the system apart from leaving the impact of producing sick society. I will not be shy of saying that anti drug justice is a criminal



dimension of social justice as drug addiction forms vitals of the society along-with illicit money generation by drug trafficking.

8. In fact, the jurisdiction of the Court to grant bail is circumscribed by the provision of Section 37 of NDPS Act specifically observing that bail can be granted only if reasonable grounds are there to believe the innocence of the accused added with the fact that he is not likely to commit any offence while on bail. The mandate as envisaged under section 37 of the NDPS Act needs to be followed which reads as under:

“37. Offences to be cognizable and non-bailable.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),— (a) every offence punishable under this Act shall be cognizable; (b) no person accused of an offence punishable for 3 [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless— (i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.”

9. Going a step further it is negative burden casted on the petitioner to disapprove the case of prosecution as per the mandate of Section 37 of the NDPS Act which discloses that the offences are cognizable and non-bailable.



10. Directing attention of this Court to the present case, it is evident that the recovery effected in the present case falls under the commercial quantity and specific role has been attributed to the present petitioner of being a supplier of 3500 tablets of Tramadol Hydrochloride weighing 610 grms and 4200 tablets of Alprazolam weighing 462 grams and besides the petitioner has only undergone for a period of 8 months and 7 days, this Court finds no reason to enlarge the petitioner on regular bail at this stage.

11. In the light of above, considering the huge quantity of the contraband recovered and the manner in which the *modus operandi* is evident, wherein the petitioner is alleged to be actively involved, therefore petition deserves to be dismissed having no merits.

12. Hence, the same stands dismissed with no order as to costs.

23.08.2024
anuradha

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>