



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

206

CRM-M No.34211-2024 (O&M)
Date of Decision: 10.01.2025

Amanpreet Singh alias Gora

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Yashpal Thakur, Advocate for the petitioner.

Mr. Kuljit Singh, Addl.A.G, Punjab.

MAHABIR SINGH SINDHU, J.

Present second petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for grant of bail pending trial to the petitioner in FIR No.112 dated 23.07.2022, registered under Section 22-C of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station Sirhind, District Fatehgarh Sahib.

2. Allegations are that 5700 tablets containing salt *Alprazolam* were allegedly recovered from the petitioner.

3. It is contended by learned Counsel for the petitioner that he has been falsely implicated in the present case and he is in custody since 23.07.2022 and there is no other case pending against him.

4. *Per contra*, learned State counsel while opposing the prayer of petitioner submits that recovery effected from the petitioner is commercial in nature and as such, in view of the specific bar under Section 37 of the NDPS



Act, present petition is liable to be dismissed.

5. Heard learned counsel for the parties and perused the record.

6. Before proceeding further, it is relevant to extract the provisions of Section 37 of the NDPS Act and the same read as under:-

Section 37 of the NDPS Act – 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 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.”

7. Aforesaid Section, is in the nature of non-obstante clause and which, *inter alia*, lays down that no person accused of an offence involving commercial quantity shall be released on bail, unless the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such an offence and not likely to commit any offence while on bail.

8. Both the above conditions are cumulative and not alternative.

The law is well settled that requirement of satisfaction in terms of Section 37



(1)(b)(ii) (*ibid*) regarding the accused being not guilty is to be recorded on the basis of reasonable grounds and that should be more than *prima facie*.

9. The recovery alleged is commercial in nature; therefore, this Court is not inclined to record the twin test satisfaction in favour of petitioner in terms of Section 37 of the NDPS Act.

10. Consequently, there is no option, except to dismiss the petition “at this stage”.

11. Ordered accordingly.

12. The above observations be not construed as an expression of opinion on merits of the case in any manner.

Pending application(s), if any, shall also stand disposed off.

10.01.2025
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No