



CRM-M No.50000-2024

1

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215

CRM-M No.50000-2024 (O&M)
Date of Decision: 08.01.2025

Sonu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**Present:** Mr. Pradeep Panwar, 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.152 dated 27.05.2023, registered under Sections 21, 21-C, 27-A and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act'), at Police Station STF, Phase-IV, SAS Nagar, Mohali.

2. Allegations are that petitioner-Sonu along with co-accused was apprehended along with *heroin* weighing 1 Kg and 600 grams.

3. Contends that petitioner has been falsely implicated in the present case; charges framed by the learned trial Court on 23.02.2024; thus, conclusion of trial will take sufficient long time. Also contends that petitioner is in custody since 27.05.2023 and he is not involved in any other criminal case.

4. *Per contra*, learned State counsel vehemently opposed the prayer while submitting that allegations against the petitioner are serious in



CRM-M No.50000-2024

2

nature; recovery alleged is commercial in nature. Further contends that in view of the gravity of offence, petitioner does not deserve the concession of bail.

5. Heard learned counsel for the parties and perused the paper-book.

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 menace of drugs has completely ruined the State of Punjab and which needs to be dealt with sternly. Hon'ble the Supreme Court in ***Parwinder Singh @ Parminder Kumar @ Vicky Vs. State of Punjab***, SLP (Crl.) 12601-2023, decided on 14.12.2023, has held as under:-

“5. Having heard learned counsel for the parties, we are of the considered view that the parameters of granting bail in a case under special statutes like NDPS Act may not be liberally construed in the instant case. We say so taking notice of the fact that the State of Punjab is reeling under the grip of drug menace. There are several drug lords whose roots are identifiable in the State of Punjab, and who operate in the cross-border drug racketing and organized trafficking of narcotic drugs and psychotropic substances. It is a matter of common knowledge that huge cache of illicit drugs is smuggled across the border. Some local Pharmaceutical Industries, State police officials and other affluent people have been suspected to be involved, at occasions, in international drug trafficking. The drug addiction has posed a serious threat to the once vibrant state of Punjab. The Courts, therefore, ought to be highly circumspect while granting bail, especially to a repeat offender. The appellant, as it seems from the allegations, is a drug peddler and there is every likelihood of his returning to the same illicit trade once he is allowed the privilege of pre-arrest bail.”

10. 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.

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

12. Ordered accordingly.

13. The above observations be not construed as an expression of



CRM-M No.50000-2024 4

opinion on merits of the case in any manner.

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

08.01.2025 (MAHABIR SINGH SINDHU)
Rajeev (rvs) JUDGE

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