

1. *IN THE COURT OF SH.AMAR JEET SINGH*
2. *JUDGE, SPECIAL COURT*
3. *UID NO.PB0444*
4. *FATEHGARH SAHIB.*
- 5.
6. *Bail application*
no.196/2022
7. *CNR*
No:PBFG010007312022
Decided on:04.03.2022
- 8.
9. Satnam Singh @ Judge aged about 25 years son of Balwinder Singh,
resident of village Sur Singh, PS Bhikhiwind, District Taran Taran,
Punjab, India.
10. Applicant/accused
11. **V E R S U S**
12. **State of Punjab**
13.Respondent
14. *FIR No.235 dated 28.08.2021*
15. *Under Section 21-C/61/85 NDPS Act*
16. *PS Mandi Gobindgarh*
- 17.
18. **Application for regular bail U/s 439 of Cr.PC**
19. Present: Sh. Amandeep Bawa, Advocate for the applicant/accused.
20. Ms. Navjeet Kaur, Addl.PP for the State

21. **ORDER**

1. This order of mine shall dispose of the regular bail application filed by
the applicant in abovesaid FIR.

2. Perusal of FIR shows that from the conscious possession of present accused 300 grams of heroin have been recovered.
3. On notice, learned Addl.PP for the State appeared alongwith the record file and vehemently contested the bail application. He has argued that as per the provisions of Section 37 NDPS Act, there is specific bar of granting bail where the recovery falls under commercial slab as per the schedule of NDPS and as such present bail application deserves to be declined.
4. Ld. Counsel for the applicant submitted that false recovery has been foisted upon him. Accused is in custody since 28.08.2021. Investigation of the case will take long time to conclude. He may be released on bail.
5. I have gone through the record and heard the arguments advanced by the counsel for the applicant.
6. Perusal of the record shows that 300 grams of heroin have been recovered from the conscious possession of the accused which is commercial quantity. Since, as per the Schedule of NDPS the said recovery falls in commercial quantity and as held by Hon'ble Supreme Court in **State of Kerala etc Vs Rajesh etc 2020 (1) RCR CrI. 818** that provisions of Section 37 of NDPS are mandatory in nature. Once the alleged recovery is of commercial quantity then petitioner will not be entitled for grant of bail. Only two conditions are to be satisfied;

Firstly, prosecution must be given opportunity to oppose and contest the bail application and

Secondly the Court must be satisfied that there are reasonable grounds for believing that he is not guilty of such offence.

7. If either of these two conditions are not satisfied the ban under Section 37 NDPS operates. The reasonable grounds means something more than prima facie grounds such that it contemplates substantial probable cause for believing that the accused is not guilty of such offence is missing in this case. Since the counsel of applicant has failed to satisfy the Court that accused is not guilty prima facie and as such the bar under Section 37 NDPS Act would operate. In view of the nature and gravity of offence, no ground is made out for grant of bail to the applicant. Without commenting on merits of the case, bail application stands declined. Bail application be tagged with the main file.

(Amar Jeet Singh)
Judge, Special Judge
UID No.PB0444
Fatehgarh Sahib.