

**In the Court of Sh. Lalit Kumar Singla, Judge Special Court,  
Jalandhar. (UID No. PB0104).**

|                     |                    |
|---------------------|--------------------|
| CIS Number          | BA/4628/2023       |
| CNR number          | PBJL01-012183-2023 |
| Date of Institution | 12.09.2023         |
| Date of Order       | 16.09.2023         |

Karan aged about 19 years son of Balvir Singh @ Beera resident of  
Nawan Pind, P.S. Kotwali, Tehsil & District Kapurthala.

..... Applicant/accused

Versus

State of Punjab

...Respondent.

FIR No.224 dated 29.07.2023  
Under Section 21/61/85 NDPS Act.  
Police Station Rama Mandi, Jalandhar.

**First Bail Application Under Section 439 Cr.P.C.**

Present : Sh.Surinder Kumar Sharma, Advocate for applicant-  
accused.  
Sh. APS Dhillon, Addl. PP for the State

**ORDER**

1. This order of mine shall dispose of first regular bail application under Section 439 Cr.P.C. brought on behalf of applicant/accused Karan in the above noted case.
2. Notice of the bail application was given to State of Punjab, upon which learned Additional Public Prosecutor for State has opposed bail application. Police record and court file perused.
3. Concisely stated, on 29.07.2023, SI Jasbir Singh along with police officials was present near Lamma Pind Chowk, Jalandhar,

where two motorcyclists on motorcycle bearing No.PB09-AL-8326 were intercepted, who on seeing the police parties, tried to turn back. However, they were apprehended and were enquired about their whereabouts;

The motorcyclist disclosed his name as Karan son of Balvir @ Beera and pillion rider disclosed his name as Raman son of Jassa;

From the search of right pocket of Lower worn by accused Karan, a plastic bag containing heroin to the tune of 260 grams, was recovered without any licence or permit;

From the search of Jean Pant worn by accused Raman, a plastic bag containing heroin to the tune of 15 grams was recovered without any licence or permit.

4. Learned counsel for the applicant/accused has vehemently contended that the applicant/accused has been falsely implicated in the instant case. The alleged recovery of 260 grams of heroin has already been effected from accused Karan. So, applicant-accused who is lingering in custody since 29.07.2023, may be released on bail.

5. On the contrary, learned APP for the State prayed for dismissal of the bail application on the pretext that the alleged recovered quantity is commercial in nature.

6. Having considered the arguments of both the sides in light of the recovery available on file, I have found that on 29.07.2023 during the course of nakabandi, accused Karan and

Raman were apprehended by a police party headed by SI Jasbir Singh, while coming on a motorcycle bearing No. PB09-AL-8326. From the search of right pocket of Lower worn by accused Karan, a plastic bag containing heroin to the tune of 260 grams, was recovered without any licence or permit and from the search of Jean Pant worn by accused Raman, a plastic bag containing heroin to the tune of 15 grams was recovered without any licence or permit.

7. The alleged recovered quantity of 275 grams of heroin is commercial in nature. Learned counsel for the applicant/accused could not controvert the fact that the alleged recovered quantity of alleged contraband is commercial in nature.

9. Hon'ble Supreme Court of India in citation titled as "**Dharampal Singh Vs. State of Punjab 2010(4) RCR (Criminal) 504**", has categorically observed that where the accused were travelling in a private car and the alleged contraband of opium recovered from the dickey of car, it would be concluded that accused who were travelling in a car were in conscious possession of opium.

10. Similarly in "**Jagdish Rai Vs. State of Punjab 2011(2) RCR (Criminal) 290**", Hon'ble Supreme Court of India has categorically observed that recovery of 04 Kgs. of opium was effected from the pillion rider of motorcycle, so it cannot be taken that the motorcyclist was not aware of that the pillion rider was in possession of opium.

10. So, applying the said principles of law, it can be gathered that applicant/accused was aware of the possession of 275 grams of

heroin in their conscious possession while driving a motorcycle bearing No.PB09-AL-8326, on which applicant-accused Raman Singh and Karan were travelling. As such, the applicant/accused can be presumed to have in conscious possession of the contraband recovered from both the accused.

11. According to Section 37 of NDPS Act, 1985, no person or accused of an offence punishable for offences involving commercial quantity, shall be released on bail, or on his own bonds, unless, 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. In the present case also, there are no reasonable grounds for believing that accused is not guilty of such offence attributed to him and he is not likely to commit any offence, while on bail. Consequently, in view of Section 37 of NDPS Act, 1985, the bail application moved by applicant/accused is hereby dismissed. Record of the present bail application be tagged with the remand papers.

**Pronounced**  
**Dated: 16.09.2023**  
Vivek\*

**(Lalit Kumar Singla)**  
**Judge Special Court,**  
**Jalandhar UID No. PB00104.**