

**In the Court of Sh.Gurmohan Singh,
Judge,Special Court, Amritsar.
(UID No.PB-0573).**

CNR No. PBAS010160972023



Case No. BA/5442/2023

Presented on : 08-09-2023
Registered on : 11-09-2023
Decided on : 14.09.2023

Vishal son of Baldev r/o village Pandori Mal, P.S.Gharinda, District Amritsar.

Versus

.....Accused/Applicant.

State of Punjab.

.....Respondent.

Second Application for bail u/s.439 Cr.P.C.
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Present: Sh. Bikramjeet Singh, Advocate, counsel for the applicant-accused.
Sh. Gurinderbir Singh, Addl. Public Prosecutor for the State.

ORDER

This order is aimed at disposal of application filed by applicant-accused seeking regular bail in FIR No. 124 dated 20.07.2022 under Sections 21,22 of NDPS Act, registered at Police Station Gharinda, District Amritsar.

2. Notice of the bail application has been issued to the State. Learned Additional Public Prosecutor for the State has appeared. Main file has been summoned.

3. Learned counsel for applicant/accused submits that the applicants is innocent and has been falsely implicated in the present case.

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Further submits that applicant-accused is in judicial custody since 20.7.2022 and is no more required for further investigation. Challan has already been presented. Further submits that no recovery has been effected from the accused/applicant. Further submits that with the presentation of the challan, new ground arises for filing fresh bail application and applicant-accused deserves concession of bail and thus prays that present bail application may kindly be allowed.

4. Ld. Addl.PP for the State submits that it is the second regular bail application of applicant as first has been dismissed on merits on 9.11.2022. Further submits that mere filing the challan, is not change in circumstances. Thus prays that present bail application may kindly be dismissed.

5. After hearing learned counsel for the accused/applicant, learned Additional Public Prosecutor for State and perusal of record, it reflects that it is the second regular bail application as first regular bail application has been dismissed on merits on 9.11.2022. It is admitted fact that challan in the present case has been filed on 17.8.2023 and charge against accused/applicant has been framed on the same very day. Ld. Counsel for the applicant has prayed that as investigation has been completed and challan has been filed and as such new ground stands arisen for bail to the applicant/accused and alleged recovery of 260 grams of Heroin is false and fabricated one, whereas nothing has been recovered from the applicant-accused on 20.07.2022. To the said fact, this Court is of the considered opinion that regular bail application has been dismissed on merits and mere

filing of the challan, does not make any new ground for the grant of bail to the accused/applicant. Moreover, in the present case 260 grams of Heroin has been got recovered from the conscious possession of accused/applicant by the police and as per report of Chemical Examiner, Diacetylmorphine(Heroin) has been detected in the content of the sample sent for analysis and as per NDPS schedule, the same falls under commercial quantity. So, taken into consideration the fact that recovery of psychotropic substance falls under commercial quantity and considering the provisions of Section 37 of NDPS Act, this Court do not find any satisfactory ground to grant concession of bail to the present accused/applicant. As such present bail application of accused/applicant is dismissed. Record of this bail application be attached with the main file.

Pronounced in open court.
Dated : 14.09.2023.

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(Gurmohan Singh)
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Present: Sh. Bikramjeet Singh, Advocate, counsel for the applicant-accused.
Sh. Gurinderbir Singh, Addl. Public Prosecutor for the State.

Main file has been summoned. Arguments heard. Vide my separate detailed order of today, present bail application has been ordered to be dismissed. Record of this bail application be attached with the main file.

Pronounced in open court.

Dated : 14.09.2023.

Typed by: Sanjeev Kumar, Stenographer Gr.I

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