

**IN THE COURT OF SH. DEVINDER KUMAR GUPTA, JUDGE
SPECIAL COURT, BARNALA. (UID NO. PB0520)**

BA no. 186 of 2023
CNR No. PBBR01-000635-2023
Decided on.23.02.2023

Birbhadar alias Kalu aged about 23 years son of Vijay Kumar resident of
Near Shiv Math, Barnala, Tehsil and District Barnala.

.....Accused/applicant.

Versus.

State of Punjab

.....Respondent.

F.I.R.No. 63 of 04.06.2021
Offence under Section 22(c), 25, 29, 61/85 of NDPS Act,
P.S. Barnala.

Bail application under Section 439 Cr.P.C.

Present: Sh. Mohit Garg, Advocate counsel for accused/applicant.
Sh. Dilpreet Singh, APP for the State.

ORDER:-

1. This order of mine shall dispose of above mentioned bail application moved by accused/applicant Birbhadar alias Kalu in the above noted case for grant of regular bail under section 439 Cr.PC.
2. Notice of bail application was issued to the State and learned Addl. PP for the State has put in appearance.
3. I have heard the learned Counsel for accused/applicant, learned Addl. PP for the State and also perused the main trial file.
4. As per the prosecution version, on 04.06.2021 Inspector Baljit Singh along-with other police officials was present in connection with patrolling and checking of suspected persons at T-point Pharwahi, it was about 11:00 AM, then he has received a secret information to the effect that

Amandeep Singh alias Tili is habitual of selling the intoxicant tablets by bringing the same from outer State and used to sell the same in the area of village Pharwahi and Sekha. Today, he is coming from Barnala towards village Pharwahi on his motor-cycle bearing registration no. PB-10DF-4626 in the opportunity to sell the intoxicant tablets to the customers. If, search be conducted at the above said disclosed place, then he can be apprehended along-with heroin/intoxicant powder and motor-cycle. As the information was credible, so ruqa was sent and case was registered against him. Then further investigation was carried out by ASI Gurpal Singh.

During patrolling and nakabandi ASI Gurpal Singh along-with other police party has apprehended the above said accused/non-applicant Amandeep Singh alias Tili in the jurisdiction of Pharwahi-Barnala Bridge Drain and from his possession 200 strips each strip contain 10 tablets (thus, total 2000 tablets) make Celludol-100 SR having batch no. UFT.040 MFG.04/2021 Exp. 03/2023 were recovered.

During investigation and on the basis of interrogation of Amandeep Singh accused/non-applicant, Birbhadar alias Kalu (bail applicant), Lakhwinder Singh alias Buntly and Kamal Kumar were nominated as an accused in the present case. On 21.07.2021 accused/applicant Birbhadar alias Kalu was arrested in the present case and from his possession 125 strips each strip contain 10 tablets (total 1250 tablets) make Celludol-100 SR having batch no. UFT.040 MFG.04/2021 Exp. 03/2023 was recovered. On 23.07.2021 at the instance of accused/applicant Birbhadar alias Kalu, accused Parveen Sharma alias Golu

alias Goldy was nominated as an accused in the present case and he was arrested in the present case on 28.07.2021. From the possession of accused Parveen Sharma alias Golu alias Goldy, 140 strips each strips containing 10 tablets total 1400 intoxicant tablets make Tramadol TM-100SR and 1000 loose intoxicant tablets of white colour was recovered.

During investigation of the case and as per statement of Vinod Kumar, accused/non-applicant Mohit Kumar alias D.P was cropped up and he was nominated as an accused in the present case and offence under Section 29 of NDPS Act was added upon. On 02.08.2021 accused/non-applicant Mohit Kumar alias D.P. was arrested in the present case.

On 04.08.2021 during interrogation of accused/non-applicant Mohit Kumar, accused Sandeep Kumar was nominated as an accused in the present case. On 05.08.2021 accused Sandeep Kumar was arrested in the present case and from his possession 72 capsules make Proxywel Spas was recovered.

During interrogation of accused Sandeep Kumar, accused/non-applicant Shubam was nominated as an accused in the present case.

The alleged intoxicant tablets allegedly recovered in the present case from the accused/applicant were sent to the FSL. As per report of FSL, the contents of the said tablets were found to be **“Tramadol Hydrochloride”**. After conclusion of investigation, challan has been presented against the accused.

5. Learned counsel for the applicant/accused has vehemently contended that the accused/applicant is the quite innocent and has been

falsely implicated in the present case. The prosecution allegations are totally false and frivolous. The accused/applicant is in custody since 21.07.2021. He further submitted that challan has already been presented and conclusion of its trial may take considerable time and no useful purpose would be served by detaining the accused/applicant behind the bars anymore. The accused/applicant will abide by all the terms and conditions as imposed by this Court. Lastly, a prayer for grant of regular bail to the accused/applicant has been made.

6. On the other hand, learned Addl. PP for the State has opposed the bail application on the ground of gravity and seriousness of the allegations and further submitted that the recovery effected in the present case falls within commercial category as such, the accused/applicant is not entitled for regular bail. Lastly, a prayer for dismissal of the bail application has thus, been made.

7. After giving thoughtful consideration to the rival contentions and after going through the record, this court is of the considered view that the instant bail application deserves dismissal. As per prosecution allegations, from the possession of accused Amandeep Singh alias Tili, 200 strips (total 2000 tablets) make Celludol -100 SR was recovered. Whereas from the possession of accused/applicant Birbhadar alias Kalu, 125 strips (total 1250 tablets) make Celludol-100 SR was recovered, whereas from the possession of accused Parveen Sharma alias Golu alias Goldy, 140 strips each strips containing 10 tablets total 1400 intoxicant tablets make Tramadol TM-100SR and 1000 loose intoxicant tablets of white colour was also

recovered. Further, from the possession of accused Sandeep Kumar, 72 capsules make Proxywel Spas were recovered in the present case as detailed above.

As per the report of FSL, the contents of the 1250 tablets of Celludol-100 SR allegedly recovered from the conscious possession of present bail applicant Birbhadar alias Kalu were found to be “**Tramadol Hydrochloride**”.

Further, the average weight of each tablet pertaining to the recovery of 1250 tablets allegedly recovered from the accused/applicant Birbhadar alias Kalu is 357.80 mg, thus the total weight of 1250 tablets would come to $357.80 \times 1250 \div 1000 = 447.25$ grams.

Thus, the alleged recovery effected from the present bail applicant Birbhadar alias Kalu falls within the category of commercial quantity. The stringent provisions of Section 37 of NDPS Act are attracted to this case. At this stage the Court cannot say that the accused/applicant is innocent or that he will not indulge in such activity in future. The allegations against the accused are grave and well founded at this stage. Therefore, no ground for grant of bail to the accused/applicant is made out as such, the instant bail application is dismissed. Papers be tagged with the main trial file.

Pronounced:
February 23, 2023

(Devinder Kumar Gupta)
Judge, Special Court,
Barnala, (UID No.PB0520)

Rajiv Kumar
JW/I

BA no. 186 of 2023
CNR No. PBBR01-000635-2023

Birbhadar alias Kalu Vs. State

Present: Sh. Mohit Garg, Advocate counsel for accused/applicant.
Sh. Dilpreet Singh, APP for the State.

Learned APP for the State has put in appearance on behalf of
the State.

Record of main trial file perused. Arguments on the bail
application heard. Vide my separate detailed order of even date, the bail
application is dismissed. Papers be attached with main trial file.

Pronounced:
February 23, 2023

(Devinder Kumar Gupta)
Judge, Special Court,
Barnala, (UID No.PB0520)

Rajiv Kumar
JW/I