

Rakesh Kumar Versus State. BA CIS No.2735 of 2021.
(CNR No.PBHO01-007690-2021).

Present: Shri R.S Bhogal, Counsel for applicant-accused.
Public Prosecutor for the State.

ORDER:

Applicant-accused Rakesh Kumar is seeking bail in FIR No.217 dated 22.10.2021, under Section 22-61-85 of ND&PS Act, pertaining to Police Station Dasuya, District Hoshiarpur.

2. Upon notice, application is opposed by the Learned Public Prosecutor for the State on the ground that allegations against accused are serious and he cannot be granted bail because the offence is heinous in nature. So he prayed that bail application be dismissed. Police record received.

3. Even, ASI Daljit Singh No.1246/HPR, Police Station Dasuya, District Hoshiarpur, has suffered statement that he has verified that this is the first bail application of Rakesh Kumar and no such bail application is either filed or pending in court of parallel jurisdiction or any other court or Hon'ble High Court. There is no case pending or decided against the applicant-accused. 35 grams of intoxicant powder was recovered from accused.

4. In nut-shell, case of prosecution is that on 22.10.2021, ASI Daljit Singh alongwith ASI Satnam Singh No.330 and other police officials were on patrolling duty on private vehicles and were standing at G.T Road, SDM Chowk, Dasuya, where they spotted one clean shaven person coming from Hoshiarpur Chungi, Dasuya side on motorcycle who seeing the police party, tried to turn back. But he was apprehended by ASI with the help of police officials on the basis of suspicion and on asking, he disclosed his name as Rakesh Kumar son of Shiv Kumar, resident of Village Ghugial, Police Station Haryana, District Hoshiarpur.

Suddenly, accused took out one polythene envelope from left pocket of his Capri and thrown on the ground and on asking, he revealed that the polythene envelope contained intoxicant powder. After complying with the provisions of law, on checking of polythene envelope in the presence of police officials, intoxicant powder was recovered which on weightment came to be 35 grams. Accordingly case was registered against the accused under Section 22-61-85 of ND&PS Act and he was arrested.

5. Learned Counsel for applicant-accused has argued that the applicant-accused is innocent and has committed no offence. The applicant-accused is in custody since his arrest i.e. 22.10.2021. The sample has been sent to the Chemical Examiner but the chemical examiner report has not been received as yet. In the absence of report of chemical examiner, it cannot be ascertained as to whether the recovery of contraband effected from the accused falls under commercial quantity or below quantity as per schedule attached to ND&PS Act. The presentation of challan and receipt of chemical examiner report may take time. No useful purpose will be served by keeping the applicant-accused in custody, rather it will be burden on the State Exchequer. Without commenting on the merits of the case, the applicant-accused Rakesh Kumar, is ordered to be released on interim bail subject to his furnishing personal bail bonds in the sum of Rs.50,000/- with one surety in the like amount before Trial/Duty Judge, subject to the conditions that he will appear in the court on each and every date of hearing, will not tamper with the prosecution evidence and will not leave India without prior permission of this court. Bail application stands disposed of accordingly. The SHO concerned is directed to forward the Chemical Examiner report to the court immediately on receipt of the same and accused shall surrender before the court within one week of the receipt of chemical examiner reports for further proceedings, as per law. Papers be attached with the remand papers.

Announced in open court:
Dated: 18th November, 2021.

‘Gautam Manocha, JW (SG)’

(Jatinder Pal Singh Khurmi),
Judge, Special Court, Hoshiarpur.
(UID No.PB-00057).