

**In the Court of Sh. Manoj Kumar, Judge Special Court,
Gurdaspur.**

-:.....:-

Bail application No. 396 of 04.10.2018

Date of order: 08.10.2018

CIS no. BA-2716-2018

UID no. PB0174

FIR No. 199 of 13.09.2018

Under Section 2-61-85 of NDPS Act

Police Station: City Gurdaspur

1. Sandeep Kumar @ Lucky son of Sh. Prem Pal resident of near Duggal Agency, Batala Road, Gurdaspur, Tehsil and District Gurdaspur. AT present lodged in Central Jail, Gurdaspur.

2. Balwinder Kumar @ Kalu son of Dalbir Kumar resident of Mohalla Islamabad, Gurdaspur, Tehsil and District Gurdaspur. AT present lodged in Central Jail, Gurdaspur.

.....Accused/applicants

Versus

State of Punjab

1st bail application under Section 439 CrPC.

Present: Shri B.S. Dhakala, Advocate, for accused-applicants.
Shri J.P. Bains, APP for State.

ORDER

1. Present bail application has been moved on behalf of accused-applicants for bail under Section 439 of the Cr.PC in the above noted case. Along-with the bail application prayer has been made for granting the interim bail.

2. Notice of bail application was given to the State upon which, learned Additional Public Prosecutor put in appearance and opposed the bail application. Police record perused.

3. As per story of prosecution, on 13.09.2018 applicants-accused namely Sandeep Kumar and Balwinder Kumar were apprehended by the police party headed by ASI Dharamjit Singh along-with other police officials in the vicinity of Lalo Chowk, Gurdaspur. Upon suspicion, search of accused

were conducted and one polythene envelope which was thrown by accused-applicants containing 63 intoxicant capsules make Parvan Spas were recovered without any licence or permit.

4. I have heard learned counsel for accused-applicant, learned Additional Public Prosecutor for the State and perused the record of the police. The chemical report has not been received so far to deduce the fact that whether the quantity of alleged contraband is non-commercial or commercial. Accused is lingering in judicial custody since 14.09.2018.

5. A Division Bench of Hon'ble High Court of Punjab and Haryana in CRM No.M-13140 of 2012, 14461 of 2012 and 20282 of 2012 and CRM No.M-1379 of 2013 case titled as **“Inderjit Singh @ Laddi etc. Vs. State of Punjab”** while placing reliance upon the citations of law by Hon'ble Supreme Court of India titled as **“Sukhwant Singh Vs. State of Punjab, (2009) 7 SCC 539”** and **“Deepak Bajaj Vs. State of Maharashtra, (2008) 16 SCC 14”** has categorically observed that Article 21 of the Constitution of India protects the life and liberty of every person. The reputation of a person is his valuable asset and is a facet of his right under Article 21 of the Constitution. The Court hearing on regular bail application has got an inherent power to grant interim bail pending the final disposal of the bail application. The Presiding Officer of a Special Court dealing with NDPS cases wherever the need is felt and where the matter is being unnecessarily delayed may grant interim bail till the receipt of the FSL report.

6. Applying the said principles of law to the facts of the present case, I have found that accused are lingering in custody, whereas Chemical report is not likely to be placed on record by the prosecution in the near future. An unnecessarily delay has been caused to place on record the chemical report. So pending the receipt of chemical report, accused Sandeep Kumar and Balwinder Kumar are admitted to interim bail till the receipt of the Chemical Examiner report, during the

pendency of bail application, on his furnishing of bail bonds in the sum of Rs.50,000/- with one surety in the like amount each, subject to conditions that they shall appear on each and every date of hearing; they shall not leave the country without prior permission of the Court and they shall not induce the prosecution witnesses. Bail bonds not furnished. Papers be attached with remand papers.

7. However, if after receipt of Chemical Examiner report, the Court reaches to the conclusion that the alleged recovered quantity of contraband is commercial, in that event, the prosecution shall be at liberty to seek cancellation of bail. The case stands adjourned to 20.11.2018 for awaiting chemical report.

Pronounced in the open Court
Dt. 08.10.2018

(Manoj Kumar)
Judge Special Court,
Gurdaspur.
UID no. PB0174

(Dilbag Singh)
Steno Gr. II
Next date: 20.11.2018
Purpose:_____