

Jasvir Singh @ Kala Vs. State of Punjab

CNR No.PBKP01-005090-2017

B.A.No.2952 of 25.10.2017

Date of Order: 25.02.2019.

Present: Sh.B.J.S.Bajwa, Adv., counsel for the applicant/ accused.
Ms.Aarti Mehta, Addl. Public Prosecutor for the State along with
Investigating Officer.

ORDER

This bail application file received by way of transfer. It be registered.

2. Learned Addl.PP for the State along with Investigating Officer submitted that the report of the Chemical Examiner has been received in this case and challan has also been presented, which is fixed for today.

3. Ld. counsel for the applicant/accused submitted that the applicant/accused has filed the bail application U/s 439 Cr.P.C.for the grant of regular bail benefit to him. He further stated that while relying upon the law laid down by our Hon'ble High Court (DB) in ruling reported as ***“Inderjit Singh alias Laddi Vs. State of Punjab (DB) RCR 2014(3) page 953”*** vide order dated 13.11.2017, accused/ applicant was granted benefit of interim bail by the court of learned Judge Special Court, Kapurthala with an undertaking that if on receipt of report of the Chemical Examiner any other such kind of salt/ingredient reported to be contained in the alleged intoxicant powder involved in this case and makes the contraband of the category of commercial quantity as per the provisions of NDPS Act, then the applicant- accused will have to appear/ surrender before the court and the benefit of present interim bail shall be deemed to have been cancelled.

4. Today, learned Addl.PP for the State along with the Investigating Officer has submitted that the report of the Chemical Examiner has been received and as per report of Chemical Examiner the salt/ingredient of alleged recovered intoxicant material stated to be found as Alprazolam (As per Entry No.178, upto 05 grams falls under the small quantity and above 05 grams upto 100 grams falls under the non-commercial quantity). So, his bail application under Section 439 Cr.P.C. must be rejected.

5. I have paid a considerable thought and gone through the challan file which is also fixed for today. As per the report of the Chemical Examiner, the salt/ ingredient received in the alleged sample is Alprazolam and as per the schedule attached with the NDPS Act, Alprazolam upto 100 grams falls within the non-commercial quantity. The alleged recovery effected from the accused in this case is 60 grams intoxicant material, *i.e.*, Alprazolam, which falls under the non-commercial quantity. So, keeping in view of the above-said circumstances and as per report the salt/ingredient received in the alleged sample is Alprazolam, and the recovery is 60 grams Alprazolam, which falls under the non-commercial quantity.

6. So keeping in view of the above-said circumstances and as per report alleged recovery falls under the non-commercial quantity. Therefore, Section 37 of the NDPS Act will not apply. So, the bail application filed by the applicant/accused U/s 439 of Cr.P.C. is accepted and the order dated 13.11.2017 is made absolute and confirmed. In this way, this application stands accepted and disposed of. Bail application file be tagged with the main file.

Pronounced in open Court.
Dated: 25.02.2019
(Kaushal)

(Sachin Sharma)
Judge, Special Court,
Kapurthala
UI Code - PB0519