

Present: Sh. Mohit Attri, Advocate, free legal aid counsel for
accused/applicant
Sh. Harwinder Singh, Addl.P.P. for the State.

ORDER

1 Heard. This order will dispose of bail application u/s 439 Cr.P.C. filed by the applicant/accused Lakhvir Singh in FIR no. 309 dated 26.12.2017 u/s 22/61/85 of NDPS Act, PS Sangat.

2 Upon notice, this bail application was contested by learned APP on the ground that report of Forensic Science Laboratory has not been received till date to determine this factor that whether the contraband recovered from the accused falls under commercial or non-commercial quantity. Hence he prayed for dismissal of the bail application.

3 ASI Harbans Singh has made statement in the Court that in this case 100 tablets labelled as DIGI fresh 0.5 and 100 tablets of Tredol were recovered from the possession of accused-applicant and he is in judicial custody since 26.12.2017. Report of FSL has not received till date. As per the statement of ASI Harbans Singh, it is clear that report of Forensic Science Laboratory has not received till date. As such, it cannot be determined that whether the contraband recovered from the accused falls within commercial or non commercial quantity. **In Criminal Misc. No.13140 of 2012 titled as Inderjit Singh @ Laddi versus State of Punjab decided on 31.1.2014**, it has been held by the Division Bench of our Hon'ble High Court that, "it is suggested that the State authority should get the drugs in respect of which there is contravention and that are recovered examined by the Chemical Analysts at the earliest and a report provided to the offender at the earliest so that the position can be ascertained as to

whether the alleged offender was in possession of permissible quantity of the drug or otherwise. In case, there is delay, this would entitle the offender to at least interim bail till the report is finally received". The law laid down in these citations is fully applicable to the facts of the case in hand. The FSL report has not been received till date and the accused is in custody since 26.12.2017.

4. In view of aforesaid discussion and keeping in view the law laid down by the Hon'ble High Court in the aforesaid judgment, without commenting on the merits of the case in hand, the application is allowed and the accused/applicant is ordered to be released on interim bail till the receipt of report of FSL. He is directed to be released on interim bail on furnishing bail bonds in the sum of Rs.1,00,000/- with one surety in the like amount to the satisfaction of this Court/duty Court with the following conditions:-

1. that the applicant/accused shall appear in the Court on each and every date of hearing,
2. that the applicant/accused shall not leave the country without prior permission of the Court,
3. that the applicant/accused shall not threaten or induce any witness to dissuade him from disclosing the true facts.
4. that the applicant/accused will surrender before this Court on the presentation of challan and will seek regular bail afresh.

This interim bail will be treated till the filing of challan only. Bail application is ordered to be tagged with the remand papers pending in this Court.

Pronounced in open Court

Dt: 16.2.2018

(Manjinder Singh),
Judge, Special Court,
Bathinda/UID No.PB0064

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