

Randip Kumar vs State BA 309-2019
CNR No. PBJL01 003327 2019
FIR No. 14 dated 17.01.2019
U/S 21 NDPS Act PS Bhogpur
Date of Order: 04.02.2019

Present: Shri Inderpreet Singh counsel for applicant-accused
Addl. PP for State.

Applicant-accused seeks bail under Section 439 Cr.PC.in the above noted FIR. It has been submitted that there is a recovery of recovery of 5 gm of Heroin from the applicant/accused and applicant/accused is in custody since 17.01.2019. It is requested that accused be released on interim bail as there is minute possibility that quantity so recovered will fall in commercial quantity. Prosecution has not made sincere efforts to procure the report from the office of Chemical Examiner. Applicant/accused be therefore released on interim bail.

2. I have heard learned counsel for applicant/accused, learned Addl. PP for State and perused the file. The present applicant/accused is in custody since 17.01.2019 and there is recovery of 5 gm of Heroin from the applicant-accused. There is delay in receiving the report of FSL and that too on account of rush of cases pending for awaiting report of Chemical Examiner. Investigation is incomplete on account of non-receipt of result of Chemical Examiner. Nature of substance so recovered can only be ascertained when report is received from the office of Chemical Examiner. There is a latest pronouncement of Hon'ble Punjab and Haryana High Court in case titled as ***“Inderjit Singh Vs. State of Punjab”*** in which pronouncement of Hon'ble Supreme Court of India were also discussed. Hon'ble Punjab and Haryana High Court clearly opined that Court while entertaining applications for regular bail is competent to grant interim bail if there are sufficient reasons and there is delay in disposal of the application on account of fact which is beyond the control of the accused.

3. After considering the facts and circumstances of the case, this Court is of the opinion that concession of interim bail is required to be extended subject to condition that undertaking will be given in bail bonds itself that concession of interim bail will not continue in case nature of substance is found in the category of commercial. Accordingly, accused is granted interim bail on furnishing of bail/surety bonds to the tune of Rs.50,000/- with one surety in the like amount. In case contraband allegedly recovered from the possession of the accused found to be fallen in non commercial quantity, the interim order shall be confirmed automatically and bail bonds and surety bonds furnished by applicant-accused as per the interim bail order shall be ordered to be treated as bail bonds and surety bonds against the final order. The accused/ applicant is further directed to surrender in the Court in case contraband allegedly recovered from his possession falls in commercial quantity on receipt of report of the Chemical Examiner. Accordingly, present bail application is disposed of. File of bail application be attached with the main file.

(Ashok Kapoor)
Judge, Special Court,
Jalandhar(UID
No.PB0140)

Dated: 04.02.2019
ramesh chander*