

PBGD010091612019



Presented on : 09-09-2019
 Registered on : 09-09-2019
 Decided on : 10-09-2019
 Duration : 0 years, 0 months, 1 days

**IN THE COURT OF
 Judge Special Court, Gurdaspur
 (Presided Over by Sh. Jatinder Pal Singh Khurmi)**

CNR No. PBGD01-009161-2019

CIS No. BA-2789-2019.

Bail Application No. 621 of 09-09-2019.

Tarsem Singh son of Surain Singh, resident of village Jiwan Nangal,
 Adda Bohri, P.S. Kotli Surat Mallian, Tehsil Dera Baba Nanak, District
 Gurdaspur.

...Applicant/Accused

Versus

State of Punjab.

...Respondent.

FIR No. 69, dated 06.08.2019,
 Under Section: 22-61-85 of NDPS Act,
 Police Station: Kotli Surat Mallian

2nd Bail Application under Section 439 of Cr.P.C

Present: Shri G.S. Pannu Advocate, for applicant-accused.
 Shri J.P.Bains, Additional Public Prosecutor for the State.

ORDER

The present application has been filed for regular bail under section 439 Cr.P.C. to grant bail to the applicant in case FIR No. 69, dated 06.08.2019, under Section 22/61/85 of the Narcotic Drugs and Psychotropic Substances Act 1985, (for short the 'Act') registered at police station Sadar Gurdaspur.

2. Notice of the bail application was issued to the respondent-State and police record has been received and perused.

3. As per FIR, the allegations against the accused-applicant is that on 06.08.2019 ASI Davinder Singh along-with other police party were present in the area of turn village Ali Nangal in connection with patrolling, where one young man was seen coming on foot who on seeing the police party tried to turned back and threw one polythene bag after taking out the same from his Dubb. Intoxicant tablets were visible from the transparent polythene bag. He was apprehended by the police party. On asking he disclosed his name as Tarsem Singh son of Sarain Singh. The information was sent to ASI Shamsheer Singh through wireless, who reached on the spot and conducted further investigation. On checking 200 intoxicant tablets were recovered from the said polythene bag. Accused did not produce any permit or license to possess the same. After his arrest, the representative samples were collected and sent to Chemical Laboratory for its analysis but till date, chemical report has not been received.

4. Learned counsel for the applicant Tarsem Singh was arrested on 06.08.2019 and since then he is in judicial custody. No alleged recovery was effected from the accused. He further submitted that accused-applicant is innocent and have been falsely implicated in this case. The trial is likely to take considerable time to conclude and prayed for grant of concession of interim bail.

5. Per contra, Learned Additional Public Prosecutor for the

State opposed the bail application of the accused-applicant while submitting that the accused is indulging illegal activities of drugs and he should not be granted bail and prayed for dismissal of the same. However, learned Additional Public Prosecutor has not disputed the factum of non-presentation of challan and also that report of Chemical Examiner has not been received so far.

6. Having heard the rival submissions of the learned counsel for the accused as well as learned Additional Public prosecutor for the State, besides perusing the record of the case, the question has arisen as to whether are there any circumstances which justify the release of the applicant on bail, at this stage? No doubt, trafficking in narcotics is a grave crime and demands a stern approach. But the Court cannot shut its eyes to a fact that applicant was arrested on the basis of suspicion and the representative samples were taken from intoxicant substances recovered from him, which according to the investigating officer, the same were prohibited drugs and intoxicant substance. However, except a suspicion by the Investigating Officer, no facts to justify such an inference have been brought forth at this stage. The report of the Chemical Examiner not on the record. There is nothing on record, at this stage, to show with certainty that the substances seized were intoxicant. Until that report is received, it would not be possible to hold with reasonable ground that apart from the recovery of intoxicant material, the applicant Tarsem Singh was also guilty of the offence under Section 22 of the NDPS Act, this Court, in these circumstances, satisfied that the applicant can be

granted bail subject to appropriate terms and conditions.

7. In the result, this application is allowed. The applicant shall be released on bail on the following terms and conditions;-

- i) The applicant shall execute a bond for Rs.50,000/- with one solvent surety for the like sum.
- ii) The applicant shall also undertakes that in case the report of Chemical Examiner comes against him, then in that eventuality, he shall surrender before this court.

8. However, it is made clear that after complying the conditions No. (ii), the applicant would be at liberty to file a fresh application for his regular bail as in that eventuality, the quantity of prohibited drug would be one of the guiding factor for consideration of the bail application.

9. Without expressing anything on the merit of the case, the instant application stands disposed of, in the terms stated above. Papers with tagged with the remand papers.

Pronounced in open Court.
10.09.2019.

(Jatinder Pal Singh Khurmi),
Judge Special Court,
Gurdaspur (UID No.PB0057)

Priya Phutella, Stenographer III

Dictated on :10.09.2019.
Transcribed on :10.09.2019.
checked on :10.09.2019.
Signed on :10.09.2019.

(Jatinder Pal Singh Khurmi),
Judge Special Court,
Gurdaspur (UID No.PB0057)