

**In the court of Sardar Harjeet Singh, Judge, Special Court,
Moga. (UID No.PB0131)**

CIS No.BA/2795/2022
CNR No.PBMO010074272022
Date of Order:- 19.12.2022

Kuldeep Singh alias Soni son of Bakhtour Singh son of Ruldu Singh resident of Charik Road, village Rania, Tehsil Nihal Singh Wala, District Moga.

....Accused/Applicant

Versus

State of Punjab

FIR No.62 dated 25.05.2022,
U/s 22/61/85 of NDPS Act ,
P.S. Badhni Kalan.

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2nd Bail Application under Section 439 Cr.PC.

Present: Sh. P.S.Gill Advocate for applicant/accused
Sh. Kuldeep Sahni Addl.PP for the State

ORDER

Vide this order, I intend to dispose of 2nd bail application under Section 439 Cr.P.C filed by applicant-accused in the FIR mentioned above.

Main file was received and perused.

Learned counsel for accused/applicant has argued that previously, accused/applicant was granted interim bail by this Court vide order dated 05.07.2022 and said order was cancelled on 17.09.2022 on receipt of chemical examiner report. False recovery has been planted upon the accused/applicant. Applicant/accused is in judicial custody since 17.09.2022. The completion of trial will take long time and prayed that applicant-accused be released on bail.

On the other hand, learned Addl. PP for the State argued that the recovery of intoxicant tablets effected from the accused/applicant found to be

containing Etizolam salt, which falls under commercial quantity. It is not a fit case where concession of regular bail can be granted to the accused/applicant. Lastly, he prayed that bail application be dismissed.

I have considered the submissions of learned Counsel for the applicant-accused and learned Addl. PP for the State.

Perusal of record shows that present FIR was registered by the police on the allegations that the police party headed by ASI Jagdev Singh was reached at T-Point, link Road, Rania in the area of Badhni Kalan in connection with patrolling, in the meanwhile, two clean shaven persons were seen coming on foot from opposite side and on seeing the police party, they tried to turn back on their left hand side and they had thrown away the transparent polythene papers. They were apprehended at the spot and upon checking of polythene paper thrown by accused/applicant, recovery of 100 loose tablets was effected.

Perusal of file goes to show that earlier the accused/applicant was granted interim bail by this court vide order dated 05.07.2022 and thereafter on receipt of chemical examiner report, order qua granting the interim bail was vacated on 17.09.2022 as the recovery effected from the accused/applicant fall under commercial quantity and accused/applicant was taken into custody on said date. As per report of FSL, 23 loose tablets containing salt "Tramadol Hydrochloride" recovered from the accused/applicant was having total weight 6.842 grams, which falls under non commercial quantity and 58 loose tablets containing salt "Etizolam" recovered from the accused was having total weight 7.714 grams, which falls under commercial quantity. Since, the recovery of 58 loose tables effected from the accused/applicant falls

under the commercial quantity, as such, there is bar of Section 37 of NDPS in granting bail in case of commercial quantity. At this stage, this court can not comment that accused has not guilty of such offence and he is not likely to commit any offence in future. So, keeping in view the gravity of offence alleged to have been committed by applicant-accused and seriousness of the allegations, it is not a fit case where concession of bail can be granted to accused. Accordingly, bail application is dismissed. Papers be attached with relevant record.

Pronounced.
19.12.2022.
(Sunny Stenographer II)

(Harjeet Singh)
Judge, Special Court,
Moga. **(UID No.PB0131)**

Present: Sh. P.S.Gill Advocate for applicant/accused
Sh. Kuldeep Sahni Addl.PP for the State

Main file received and perused. Arguments heard. Vide my separate order of even date, the present bail application stands dismissed. Papers be attached with relevant record.

Pronounced.
19.12.2022.
(Sunny Stenographer II)

(Harjeet Singh)
Judge, Special Court,
Moga. (**UID No.PB0131**)