

PBGD010057562023



Presented on : 24-07-2023
Registered on : 24-07-2023
Decided on : 26-07-2023
Duration : 0 years, 0 months, 2 days

IN THE COURT OF
Additional District and Sessions Judge
AT ,Gurdaspur
(Presided Over by Sh. Raman Goklaney)

BA/2406/2023

Kuldeep Singh @ Raja aged about 30 years son of late Avtar Singh, r/o Village Dharamkot Pattan, Dera Baba Nanak, Batala, District Gurdaspur, Punjab, India.

...Applicant/accused.

Versus

State of Punjab.

...Respondent.

First Application for bail U/s 439 of Code of Criminal Procedure.

FIR No. 82 dated 13.07.2023.
Under Section 21 & 29 of Narcotic Drugs & Psychotropic
Substance Act, 1985.
Police Station : Dera Baba Nanak.

Present : Sh. Parivartan Singh, Advocate for applicant/accused.
Sh.B.S. Mahla, Additional Public Prosecutor for State

O R D E R:-

This order shall dispose off the regular bail application filed under Section 439 of Code of Criminal Procedure (hereinafter to be referred as Cr.P.C.) by applicant-accused Kuldeep Singh in case FIR

Raman Goklaney,
Judge, Special Court/Gurdaspur.
Dated : 26.07.2023

No.82 dated 13.07.2023 under Sections 21 & 29 of Narcotic Drugs & Psychotropic Substance Act, 1985, registered at Police Station Dera Baba Nanak, District Gurdaspur .

2. Notice of the bail application was issued to the State and Sh.Bikramjit Singh Mahla, Additional, Public Prosecutor for State has put in appearance on behalf of State. Police record received and perused.

3. The facts, in brief, necessary for disposal of the instant bail application are that on 13.07.2023, police party was present in Chowk Fatehgarh Churian Dera Baba Nanak in connection with search and after some time, a Hindu gentleman came from the side of Dharamkot carrying a polythene envelop in his right hand, who on seeing the police party suddenly turned out and on the basis of suspicion, he was apprehended by the police party. It is the case of the prosecution that after following the proper procedure, for search seizure and arrest 05 grams Heroin was recovered from his conscious possession along with Indian currency notes of Rs. 2,34,000/-. It is further the case of the prosecution that during interrogation, accused-applicant disclosed that the alleged contraband recovered from the accused-applicant has been supplied to him by his brother Sandeep Singh @ Soni son of Avtar Singh and one of the co-villager Harpreet Singh @ Haria son of Jasbir Singh r/o Dharamkot Pattan. Consequently, vide a separate Rapat No.41 dated 13.07.2023, the said persons disclosed by the accused-applicant nominated in the present case.

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4. Sh. Parivartan Singh, Advocate, Learned counsel for accused-applicant submitted that accused-applicant has been falsely implicated in the case and no recovery whatsoever has been effected from him and the alleged recovery is planted one. He submitted that the money which has been recovered from the accused-applicant is infact the proceeds of selling of his tractor and he kept the same with him for purchase of another tractor. He next submitted that the wife of the applicant is pregnant and concerned doctor due to medical complications has advised her to be admitted in the hospital on 28.07.2023 for delivery of child. He next submitted that the applicant is not involved in any other case under the provision of NDPS Act. He next submitted that accused-applicant has already undergone police remand and is in judicial custody for considerable time. It is further submitted that he is ready to abide by all the conditions of bail imposed by the Court. With these submissions it is prayed that bail application of accused-applicant may be allowed and he be granted concession of regular bail.

5. While countering the aforesaid submissions, Sh.Bikramjit Singh Mahla, Additional, Public Prosecutor for State has submitted that there is sufficient material on the file which substantiate that the accused-applicant is involved in trafficking of the narcotic. He further submitted that though the alleged recovery is 05 grams but accused-applicant in connivance with other co-accused are dealing in Narcotic and finally prayed for dismissal of the bail application.

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6. After hearing the rival contentions of both the sides and on perusal of record, it transpires that the contraband allegedly recovered from the accused-applicant is 05 grams of Heroin which falls under intermediate quantity. The currency notes which recovered from the accused-applicant, there is alleged explanation on behalf of him that the same are the proceeds of tractor which he has sold recently. On perusal of the police record, it comes out that after the registration of the FIR, an offence under Section 29 of NDPS Act has been added. Considering the offences for which the FIR in question has been registered and the investigation of the case carried so far, the rigors of 37 of NDPS Act does not apply in the present case as the quantity is less than commercial quantity and as such the factors for granting or non granting bail becomes similar to the offence under regular statute. The accused-applicant is in custody for sufficient time and the documents annexed by the accused-applicant shows that his wife is on the family way and the delivery of the child is expected this week and the accused-applicant is not involved in any other case except the case in hand and as such, this Court deems it appropriate to afford the applicant one opportunity to course correct. Substantive allegations against the applicant-accused are yet to be proved during the course of trial. Applicant-accused has already faced police remand and is in judicial custody since long. Challan has not been presented in this case and as such, sufficient time would be taken for conclusion of the case in hand arising out of aforesaid FIR. Besides it, bail is rule and jail is exception.

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Accordingly, the present bail application is hereby allowed and accused-applicant is ordered to be released on bail on his furnishing bail bonds in the sum of Rs. 50000/- with one surety in the like amount to the satisfaction of Ilqa/ Duty Magistrate subject to the following conditions:-:-

- i. That applicant-accused shall not indulge in any activity similar to the activities on the basis of which aforesaid criminal case stood registered against him for the offences under the NDPS Act.
- ii. That applicant-accused shall not undertake any action which is prejudicial to proceedings during the course of trial.
- iii. That applicant-accused shall attend all the dates during the trial unless prevented by any reasonable cause.
- iv. That applicant-accused neither personally nor through anyone make any attempt to influence the witnesses or tamper with the evidence.
- v. That applicant-accused shall not leave India without the prior permission of the Court.

7. However, it is made clear that observations made herein above shall not be construed as an expression on the merits of the main case. Copy of this order be placed on remand papers. After the submissions of requisite bonds, the same be returned to this Court forthwith. Police record be returned and bail application file be consigned to the record room.

Pronounced.

Date of order:- 26.07.2023

Iqbal Singh, Stenographer-I

(Raman Goklaney)
Judge, Special Court GSP,
UID No. PB-0687.

Raman Goklaney,
Judge, Special Court/Gurdaspur.
Dated : 26.07.2023