

IN THE COURT OF DR RAM KUMAR SINGLA

UID No. PB-0122

JUDGE SPECIAL COURT

KAPURTHALA

CNR No.
PBKP010029792021



Case No. BA/1070/2021

Presented on : 03-06-2021

Registered on : 03-06-2021

Decided on : 08-06-2021

Suheel Ahmad Banday, s/o Bashir Ahmad Banday, aged about 23 years,
r/o Mandojan, PS Shopian, Pulwama, Jammu and Kashmir.

.... Applicant/accused.

Versus

State of Punjab.

..... Respondent.

FIR No.95 of 14.12.2020,
U/s 15(c)/ 25/ 29 of NDPS Act, 1985 and
Section 192(a) of M.V. Act,
Police Station – Bholath, District Kapurthala.

Application for bail under Section 439 of Cr.P.C.

Present: Sh.Sarabjit Singh Walia, Advocate for the applicant/accused,
through telecommunication.

Ms.Aarti Mehta, Addl. Public Prosecutor for the State.

O R D E R

File put up before me being the Duty Officer.

2. Case record has been received and perused. **Arguments have been heard** on regular bail of above referred applicant/ accused namely Suheel Ahmad Banday in the above referred FIR No.95 of 14.12.2020. The challan has already been presented in the present case against present applicant and co-accused Sukha Singh. The applicant was apprehended on the day of recovery i.e. on 14.12.2020.

3. Briefly, the prosecution allegations to the present case are that on 14.12.2020, on the basis of secret information, in the area of Bein Pull Bholath, Police Station Bholath, District Kapurthala, present applicant/ accused Suheel Ahmad Banday along with his co-accused/ non applicant Sukha Singh was apprehended with 10 bags containing 25 Kg Poppy Husk each i.e. total 250 Kg of Poppy Husk along with a truck bearing registration No.JK-18-4520, being driven by the present applicant/ accused. However, co-accused/ non applicant Lakhwinder Singh was managed to escape from the spot. During the investigation proceedings, vide Rapat No.27 of 21.05.2021, names of Dineshwar Ahmad Banday and Manzoor Ahmad Malik were also nominated in the present case with the addition of section 25 of NDPS Act. Thereafter, vide Rapat No.27 of 28.05.2021, section 29 of NDPS Act was further added in the present case. Further, vide Rapat No.6 of 01.06.2021, section 192(a) of M.V. Act was also added in the present case, as validity of the permit of recovered truck in the case, had already been expired before the registration of the present FIR. Now, the applicant/ accused is in custody

since 14.12.2020. Aggrieved from that, the applicant/ accused has sought his regular bail in the present case.

4. The learned counsel for the applicant has argued that he has been falsely implicated in the present case. The sufficient period of his custody has already been passed. Though the challan has been presented, but the conclusion of trial will take long time. He could not be detained for indefinite period. Therefore, he is entitled to the concession of regular bail.

5. On the other hand, the learned Addl. PP for the State has replied that the applicant/ accused along with his associates in the present case is facing the trial of recovery of commercial quantity of contraband i.e. 250 Kg of Poppy Husk. Therefore, he is not entitled to the concession of regular bail.

6. Admittedly, though challan has already been presented in the present case against the present applicant/ accused and his co-accused Sukha Singh. The applicant/ accused is in custody since 14.12.2020, but the point to be considered here is that without expressing about the opinions of the result of trial, but as per the progress of investigation proceedings resulted to challan against the applicant and his co-accused that as per report under Section 173 Cr.P.C. and documents appended therewith, the alleged recovery is of quantity of contraband i.e. 250 Kg of Poppy Husk, which is the commercial quantity of that contraband. Moreover, the vehicle i.e. truck in which that contraband was allegedly

recovered and was allegedly transported, was driven by present applicant/ accused. Moreover, rest of the nominated accused persons are yet to be arrested, therefore, the investigation proceedings are still in progress. The said act of the applicant/ accused does not warrant to give him the concession of regular bail. Moreover, to the alleged recovery of commercial quantity of contraband, by the provisions of section 37 of NDPS Act, the regular bail is barred to such like applicant/ accused.

7. Consequently, without commenting on the merits of the case, but in view of the aforesaid facts and circumstances on record, the present regular bail application of the applicant/ accused is hereby declined and disposed off accordingly. File be returned to the concerned quarter accordingly for its consignment or to be appended with the trial file.

Pronounced in open Court.
Dated:08.06.2021.

Kaushal Kumar

(Dr Ram Kumar Singla)
Judge Special Court,
Kapurthala(Duty).
(UID No. PB-0122).

(Directly dictated on computer)