

**IN THE COURT OF HARISH ANAND,
JUDGE SPECIAL COURT, RUPNAGAR (UID NO.PB-0139).**

Registration No.BA/104/2023
CNR No.PBRO01-000415-2023
Decided on 31.01.2023

State of Punjab Vs. Gagan Behki

F.I.R. No.127 dated 19.12.2022
Under Section 22-61-85 NDPS Act,
Police Station: Kiratpur Sahib

First Regular Bail application under Section 439 Cr.P.C.

Present: Shri Parvinder Singh, counsel for the applicant
Shri Gurpreet Singh, Addl. PP for the State

ORDER:

The accused/applicant has filed the instant application under Section 439 of the Code of Criminal Procedure along with prayer for interim bail, a separate application for interim bail has also been filed by his counsel. Record has been produced by ASI Jarnail Singh. His separate statement has also been recorded.

2. Learned counsel for the accused has contended that the applicant-accused is innocent and has committed no offence. The applicant-accused has been falsely implicated in this case. No recovery has been effected from the applicant-accused. The alleged recovery planted upon the applicant-accused is not of a commercial quantity. The applicant-accused is in

judicial custody since 19.12.2022. As such, he is entitled to be released on bail.

3. On the other hand, learned Addl. PP for the State has contended that narcotic substance has been recovered so the allegations against him are serious as such, he does not deserve the concession of regular/interim bail. Learned Addl. PP has conceded that the result of FSL is yet to be received.

4. Briefly as per the allegations of prosecution, on 19.12.2022 SI Sartaj Singh along with police party was present at old canal bridge near Village Bada Pind. At about 06.25 pm, accused was sighted coming on a motorcycle from the side of Bunga Sahib. On suspicion, he was signaled to stop, who threw a polythene after taking it out from the pocket of his lower and tried to flee. However, he was apprehended and on checking of the polythene 19 grams of intoxicant power was recovered.

5. It is submitted by the learned Addl. PP for the State, on the instructions of the IO, that FSL report is still awaited to confirm the presence of Narcotics substance in the alleged contraband recovered in this case. The accused has been in custody since 19.12.2022 as stated by ASI Jarnail Singh No.262/R.

6. Relying upon the law laid down by the Hon'ble High Court in **CRM No.M-13140 of 2012 Inderjit Singh @ Laddi Versus State of Punjab**, the learned counsel has also submitted that the prayer for interim bail may be considered along with the present the regular bail application and that till the confirmation of the alleged Narcotic substance as per the

Chemical/Forensic examination the applicant may be granted interim bail.

7. It is relevant to observe here that the Hon'ble Division Bench of Hon'ble High Court ***in CRM No.M-13140 of 2012 Inderjit Singh @ Laddi Versus State of Punjab*** has held that *Indeed the delay in testing the sample does result in prejudice to an alleged offender as till the results are available there can be no definite certainty with regard to the contraband in respect of which there has been a contravention or that has been recovered. In such cases to await the outcome of the final FSL report there is likely to be delayed, the accused may be released on interim bail.*

8. In view of the contentions raised by the learned counsel for the applicant and in view of the parameters laid down by the division bench of Hon'ble Punjab and Haryana in the judgment rendered in **Inderjit Singh @ Laddi Versus State of Punjab (supra)**, accused/applicant is ordered to be released on interim bail till the receipt of the report of FSL and without prejudice to the result of this report, on his furnishing bail bonds in the sum of Rs.50,000/- and one surety in the like amount, subject to the satisfaction of Illaqa/Duty Magistrate on the following conditions:-

1. That the applicant/accused shall appear in the Court on each and every date of hearing.
2. That the applicant/accused shall not leave the country without prior permission of the Court.
3. That the applicant/accused shall not threaten or induce any witness to dissuade him from disclosing the true facts,
4. That the applicant/accused will surrender before this Court within one week when the FSL report is received and seek regular bail afresh.

5. That the applicant/accused shall not indulge in the case of similar nature.

However, none of the observations made herein before shall have any bearing on the merits of the case. The present bail application stands disposed of accordingly.

Police record be returned. Bail file be tagged with the remand papers.

Pronounced
31.01.2023

Deepak Kumar, Stenographer-II

Harish Anand,
Judge Special Court
Rupnagar. (UID No.PB-0139)

Registration No.BA/104/2023
CNR No.PBRO01-000415-2023

State of Punjab Vs. Gagan Behki

Present: Shri Parvinder Singh, counsel for the applicant
Shri Gurpreet Singh, Addl. PP for the State

Record requisitioned. Statement of ASI Jarnail Singh recorded.

Arguments heard. Vide separate order of even date, bail application stands disposed of as detailed therein. Police record be returned. Bail file be tagged with the remand papers.

Pronounced
31.01.2023

Deepak Kumar, Stenographer-II

Harish Anand,
Judge Special Court
Rupnagar. (UID No.PB-0139)

Harish Anand,
JSC, Rupnagar. 31.01.2023