

**In the Court of Shri Harbans Singh Lekhi,
Judge, Special Court, Amritsar.
(unique Identification No. PB0113)**

Case Type	BA
Filing No.	BA/10729/2018 Date: 04.10.2018
Case No.	366/2018 Registration Date: 04.10.2018
CNR No.	PBAS010138512018
CIS Number	BA/10327/2018
Date of Order	11.10.2018-.

State of Punjab.

Versus

Rabia alias Nachanas daughter of Abu, resident of Kapala, Country Ugandan, at present resident of Chattarpur Metro Station, Rajpura Khurd (Colony Andar), New Delhi.

.....Applicant/accused.

FIR No. 16 of 21.06.2018
Under Sections 21 & 29 of NDPS Act
Police Station: SSOC, Amritsar.

First Bail Application under Section 439 of Cr.P.C.

Present: Shri Vijay Gupta, Counsel for the applicant-accused.
Shri Adarsh Mahajan, Addl. PP for the State.

ORDER

This order of mine shall dispose of bail application under Section 439 of Cr.P.C., moved by applicant Rabia alias Nachanas, named above in case FIR mentioned above.

2. Notice of the bail application was issued to the State and

the learned Addl. PP for the State appeared and contested the same.

3. I have heard the learned Counsel for the applicant-accused, learned Addl. PP for the State and have perused the record.

4. Learned Counsel for applicant-accused has argued that applicant-accused is innocent and has falsely been implicated in this case. She has not committed any offence. She has been arrested by the police on the basis of alleged disclosure statement made by co-accused Kuldeep Singh, which is not admissible in evidence. A false recovery of 1 kg heroin has been planted upon accused. Applicant-accused is nursing a three months old child. Mandatory provisions of NDPS Act have not been complied with in this case. Applicant-accused is in custody since long. Applicant-accused shall abide by all the terms and conditions to be imposed by this Court while releasing her on bail and prayed that applicant-accused be granted bail.

5. On the other hand, learned Addl. PP for the State has opposed the bail application and contended that present FIR was initially registered against accused Kuldeep Singh, who was found in conscious possession of 260 grams heroin and during investigation, he suffered disclosure statement regarding involvement of the applicant-accused in the smuggling of heroin and then, she was arrested and from

her possession 1 kg heroin was recovered, which falls in the category of commercial quantity. There is bar of Section 37 of NDPS Act in granting bail in case of commercial quantity and therefore, she is not entitled to bail and prayed that bail application be dismissed.

6. After considering the rival contentions of learned Counsel for the applicants-accused, learned Addl. PP for the State and going through the record, this Court is of the considered view that bail application deserves dismissal.

7. As per story of prosecution, FIR No. 16 of 21.06.2018, under Sections 21 & 29 of NDPS Act, Police Station SSOC, Amritsar, was registered against accused Kuldeep Singh on the allegations that 260 grams heroin was recovered from his possession by the police party headed by Inspector Sukhwinder Singh from the area of T-point, G.T. Road Tarn Taran-Amritsar. During investigation, he suffered disclosure statement regarding involvement of applicant-accused Rabia in the smuggling of heroin and further that he had purchased 500 grams heroin from Rabia and out of which, some heroin has been sold by him. Applicant-accused was arrested on 28.06.2018 and from her possession, 1 kg heroin was recovered, which falls in the category of commercial quantity. There is bar of Section 37 of NDPS Act in granting bail in

case of commercial quantity. So, keeping in view the facts and circumstances of the case, applicant-accused Rabia alias Nachanas is found not entitled to the concession of bail. As such, bail application is dismissed. However, any observation made in this order shall not be taken as an expression of mind, on merits of the case. Bail application file be attached with main case file.

Dated: 11.10.2018

*janesh

**(Harbans Singh Lekhi),
Judge, Special Court,
Amritsar.**

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