

IN THE COURT OF DR. AJIT ATRI, UID NO. PB0440,
JUDGE, SPECIAL COURT, HOSHIARPUR.

Case Details	
Case Type	BA
Case Reg. No.	BA/1005/2024
Case Code No.	PBHO010033912024
Filing No.	BA/2554/2024
Date of Decision	29.04.2024

Ashok Kumar @ Akash aged 20 years s/o Kuldeep Singh, r/o Ward No.5,
Langeri Road, Mahilpur, District Hoshiarpur.

Versus

State of Punjab

... .. Applicant.

FIR No.29, dated 26.2.2024,
Under Sections 22/29 of NDPS Act,
Police Station : Mahilpur, Distt.Hoshiarpur

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

Argued by - Mr. Tajpreet Singh Kang, Advocate for the applicant.
Mr. Inderjot Singh, Additional P.P. for the State.

ORDER

- 1- This order of mine shall dispose of bail application under Section 439 Cr.P.C for grant of regular bail to the applicant.
- 2- Notice in the bail application was issued and the State has produced the record.
- 3- The ld counsel for the applicant argued that the applicant has been falsely implicated in the present case. The alleged recovery of 19 Buprenorphine Injections, IP 0.3 mg/ 2 ml (Leeagesic) has already been effected and it has been planted upon the applicant. The applicant is in custody since

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26.2.2024. Challan has not been presented and conclusion of trial will take a long time. No useful purpose will be served by keeping the applicant behind the bars. The applicant has been implicated falsely.

4- On the other hand, the ld. Addl. P.P. has opposed the bail application. It is submitted that 19 Buprenorphine Injections, IP 0.3 mg/ 2 ml have been recovered in the case from the conscious possession of the applicant which is commercial quantity. If applicant is released on bail, he may abscond to avoid the trial.

5- I have heard the ld. counsel for the applicant, ld. Addl. PP for the State and have gone through the file.

6- As per version of the prosecution case, on 26.2.2024 at about 3.30 pm in the area of P.S. Mahilpur, applicant Ashok Kumar @ Akash was found in conscious possession of 19 Buprenorphine Injections, IP 0.3 mg/ 2 ml each whereas his co-accused Harpreet Singh was found in conscious possession of 24 Buprenorphine Injections, IP 0.3 mg/ 2 ml each, by the police party headed by ASI Gurnek Singh while they were on patrolling and crime checking duty. He was apprehended and arrested in the case.

7- In this way there is recovery of 19 Buprenorphine Injections, IP 0.3 mg/ 2 ml, which is commercial quantity. In view of the recovery of the commercial quantity, the provision of section 37 of the Act becomes operative. As the recovery of contraband from the applicant is of commercial quantity, the custody period itself will not be sufficient to release him on regular bail. There is nothing on record at this stage to disbelieve the prosecution case. The

Hon'ble Apex Court in case of Union of India Vs. Ram Samujh and Ors. 1999(9) SCC 429, laid broad parameters to be followed while considering the application for bail in the offence under NDPS Act and held that the accused should not be released on bail during the trial unless the mandatory conditions under section 37 are made out. Similar is the ratio of law laid down in case of State of Kerala etc vs Rajesh etc. 2020(1) RCR Criminal 818, where the Hon'ble Apex Court while dealing with the case of bail for the offence under section 20(b)(ii)(c) and section 29 of the Act held that the liberal approach in the matter of bail under the NDPS Act is indeed uncalled for and the limitations regulating the grant of bail cannot be overlooked.

8- In view of the above discussion, the applicant is not entitled to the concession of bail. The bail application is dismissed being without merits. File be consigned to record room after due compliance.

Pronounced in open court
29.4.2024.

(Dr. Ajit Atri UID No. PB0440)
Judge Special Court,
Hoshiarpur.

(Mukesh Chander)
Stenographer

Note: The order has been directly dictated on computer and it contain 3 pages which have been checked and signed by me.

Dated: 29.4.2024

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Dated : 29.04.2024

CIS No. BA/1005/2024

CNR No. PBHO010033912024

State Vs. Ashok Kumar @ Akash

Argued by - Mr Tajpreet Singh Kang Adv. for the applicant.
Mr. Inderjot Singh, Additional P.P. for the State.

Vide separate detailed order of even date, the bail application of the applicant has been dismissed. File be consigned to the record room after the due compliance.

Pronounced in open court
29.4.2024.

(Dr. Ajit Atri UID No. PB0440)
Judge Special Court,
Hoshiarpur.

(Mukesh Chander)
Stenographer

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Judge, Special Court, Hoshiarpur.
Dated : 29.04.2024