

IN THE COURT OF SH. AVTAR SINGH, JUDGE SPECIAL COURT, S.A.S. NAGAR, (MOHALI). (UID NO. PB00086)

B.A. CIS No. 1708 of 2024
CNR No. PBSA01-004462-2024
Decided on: 04.06.2024

Manish @ Manu aged 34 years son of Padam Dev, resident of Village Ratoli, Police Station Rajgarh, District Sirmaur, H.P.

.....Accused/applicant.

Versus.

State of Punjab

.....Respondent.

FIR no. 0016 dated 30.04.2023
under Sections: 15/29-61-85 of NDPS Act
P.S. City Kurali, S.A.S. Nagar, (Mohali).

2nd bail application under Section 439 Cr.P.C.

Present: Sh. Harish Ghai, Adv, counsel for the accused/applicant.
Sh. S.S. Sahota, learned Addl. PP for the State.

ORDER

1. This order of mine shall dispose of above mentioned bail application moved by accused/applicant in the above noted case for grant of regular bail under section 439 Cr.PC.

As per report of Ahlmad, nothing is pending/decided against applicant in the present FIR in Hon'ble Punjab and Haryana High Court, Chandigarh.

2. Notice of bail application was issued to the State and learned Addl. PP for the State has put in appearance. Trial file perused.

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

4. Brief facts of the prosecution story are that the present FIR has been registered that on 30.04.2023, Manish alias Manu and Sultan Ali @ Rishab are coming on one car bearing registration no. HP-16-A-2751 mark Aura. On checking, two plastic bag was lying on the backside and diggi was opened. Two plastic bag were recovered from the car. Total four bags were recovered. Each bag containing 25 kgs of Poppy husk and total amounts to be ₹100kgs of Poppy Husk. Accordingly, offences was made out under Section 15/29-61-85 of NDPS Act.

5. Learned counsel for the accused/applicant argued that accused/applicant has been implicated in the false case. Moreover, it is well settled law that separate recovery should be considered. From the statement of Manish, which was recorded under Section 50 of NDPS Act, it is stated that only 50 kgs of Poppy husk was recovered from him. Similarly, the statement of Sultan Ali was also recorded. He also stated that the 50kgs of Poppy husk was recovered from his possession. Learned counsel for the accused/applicant argued that the bail application should be allowed.

6. On the other hand, the learned Addl. PP for the State has argued that the court has to see whether the recovery was effected from the accused jointly or not as the accused persons were coming on the same car bearing registration no. HP-16-A-2751, which was owned by accused Sultan Ali and 100 kgs of Poppy husk was recovered, which is commercial in nature. He prayed for dismissal of the bail application.

7. From the submissions of learned counsel for the accused/applicant, learned Addl. PP for the State and from the perusal of the record, this court came to the conclusion that the prosecution story is that accused was coming in the same car. In the same car, 4 bags containing poppy husk was recovered. It could not be said that separate recovery has been effected from both the accused. The statement recorded under Section 50 of NDPS Act is offer given to the accused. These documents do not depict that separate recovery has been effected. In the light of other documents and material on the file, it shows that the recovery was jointly effected from the accused. Even this the second bail application of the accused/applicant. Offence is serious in nature. If bail is granted, he can commit the offence again. He can dissuade the prosecution witnesses from their true testimonies.

8. Thus, keeping in view the gravity and seriousness of the allegations, no ground is made out to release the applicant on bail. The bail application is accordingly dismissed. Papers of this bail application be tagged with the trial file.

Pronounced:
04.06.2024

(Avtar Singh)
Judge, Special Court,
S.A.S. Nagar, (Mohali).
(UID No.PB00086)

Bhupinder Singh
Stenographer II