

Ashok Kumar Versus State. BA No. 1441 of 2021.
(CNR No.PBHO01-003835-2021).

‘Application U/s 439 Cr.P. C for Regular Bail’.

Present: Shri BS Riar, Counsel for applicant-accused.
Sh. Pawanpreet Singh, Additional PP for the State.

ORDER:

In view of order of Learned Sessions Judge, Hoshiarpur bearing Endst. No. 10871 dated 24.5.2021, the present bail application is entrusted to self. Applicant Ashok Kumar is seeking bail in FIR No. 63 dated 18.06.2021, under Section 22-61-85 of ND&PS Act Police Station Hajipur, Hoshiarpur.

2. Upon notice, application is opposed by Learned Additional PP for the State on the ground that allegations against accused are serious and he cannot be granted bail because the offence is heinous in nature. So, he has prayed that application be dismissed.

3. Version of prosecution in brief is that on 18.06.2021, ASI Daljit Singh alongwith ASI Taranjit Singh was present at Sibbo Chakk Morr, Hajipur, where he got information that a suspicious clean shaved person has been apprehended along with polythene and a motorcycle bearing No. PB07-BU-8152. Therefore an ASI to be sent there for further proceedings where ASI Daljit Singh left for HC Ravi Kumar and asked the suspicious person about his identity and he disclosed his name as Ashok Kumar S/o Satpal Singh R/o Daipur PS Talwara, Distt. Hoshiarpur. ASI Daljit Singh has suspicion that accused having some intoxicant powder in his possession. After complying

with the provisions of law, on search of the accused, '*intoxicant powder*' was recovered which on weighment, came to be 22 gram. Other formalities were also completed and accordingly case was registered against the accused under Section 22-61-85 of ND&PS Act and accused was arrested.

4. Learned Counsel for applicant-accused has argued that applicant is innocent and has been falsely implicated. Mandatory provisions of law have not been complied with. It is stated that no case is pending. The applicant-accused is in custody since 18.06.2021. However, the sample has been sent to the Chemical Examiner but the chemical examiner report has not been received as yet. In the absence of report of chemical examiner, it cannot be ascertained as to whether the recovery of contraband effected from the accused falls under commercial quantity or below quantity as per schedule attached to ND&PS Act. The presentation of challan and receipt of chemical examiner report may take time. No useful purpose will be served by keeping the applicant-accused in custody, rather it will be burden on the State Exchequer. Without commenting on the merits of the case, the applicant-accused Ashok Kumar is ordered to be released on interim bail subject to his furnishing personal bail bonds in the sum of Rs.50,000/- with one surety in the like amount before Trial/Duty Judge, subject to the conditions that he will appear in the court on each and every date of hearing, will not tamper with the prosecution evidence and will not leave India without prior permission of this court. Bail application stands disposed of accordingly. The SHO concerned is directed to forward the Chemical Examiner report to the court immediately on receipt of the same and accused shall surrender before the court within one week of the receipt of chemical examiner report for further proceedings, as per law. Papers be attached with remand papers pending in court concerned.

Announced in open Court:
Dated: 30th June, 2021.
(Vandana-Steno-III)

(Jatinder Pal Singh Khurmi),
(D) Judge, Special Court, Hoshiarpur.
(UID No.PBO-0057).