

**IN THE COURT OF SH. VARUN NAGPAL, ADDITIONAL
SESSIONS JUDGE, JALANDHAR. (UID-PB0204).**

BA No.	1445 of 2020
CNR No.	PBJL01004536-2020
Date of Instt.	23.04.2020
Date of Order	14.05.2020

Jimmi Kumar, aged about 26 years, son of Baldev Raj, R/o VPO Bhattian
Kahnuwan, Gurdaspur, District Gurdaspur.

....Accused/ applicant

Versus

State of Punjab.

FIR No.32 dated 03.03.2020
U/s 22/61/85 NDPS Act &
Section 25-54-59 of Arms Act,
P.S. Goraya, District Jalandhar.

(Application for regular bail under Section 439 Cr.P.C.)

Present: Sh. N.S. Minhas Advocate, Ld. Counsel for the
accused/applicant.
Sh. Rishi Bhardwaj, Ld. Addl. PP for the State.

B A I L O R D E R :-

1. This order of mine shall dispose of above mentioned regular
bail application of accused/applicant **Jimmi Kumar** in a case bearing FIR
No.32 dated 03.03.2020 registered under section 22/61/85 NDPS Act &
Section 25-54-59 of Arms Act, at Police Station Goraya, District
Jalandhar.

Varun Nagpal,
ASJ/14.05.2020

2. Upon notice, Sh. Rishi Bhardwaj Additional Public Prosecutor appeared on behalf of the State.

3. The learned Counsel for the accused/ applicant has submitted that accused is innocent and has committed no offence. He has been falsely implicated in the present case. No recovery has been effected from the accused/applicant. He is in judicial custody since 03.03.2020. Accused/ applicant has further submitted that he will abide by all the terms and conditions imposed by the court while granting the bail. Lastly, it is prayed that accused/ applicant may be allowed bail.

4. On the other hand, the learned Addl. PP for the State has opposed the bail application. He has submitted that the accused has committed a serious offence. Hence he is not entitled to the concession of bail.

5. I have heard the Ld. Counsel for the accused/applicant and Ld. APP for the State and have also gone through the record.

6. As per version of the prosecution, in the present case recovery of **7.65 bore of country made pistol** was effected from the present accused **Harpreet Singh** as well as intoxicating **925 tablets** was effected from the co-accused **Jimmi Kumar**. But report from the office of Chemical Examiner has not been received. It can only be ascertained on receipt of the report of Chemical Examiner whether the recovery effected from the accused falls within the ambit of commercial or non commercial category. So, in this view of the matter, the accused/applicant is not

entitled to the concession of regular bail. As such, the application filed on behalf of accused for **regular bail stands dismissed**.

7. However, Ld. Counsel for the accused has prayed for the grant of interim bail as the chemical report has not been received. The accused/ applicant is in custody in this case since long. The period of two months have elapsed but the chemical report has not been received. The alleged recovery has already been effected from the accused/ applicant. The prosecution will prove its case against the accused only after submission of report under Section 173 Cr.P.C. on completion of investigation. It has been settled legal proposition by now that the delay in testing the sample does result in prejudice to the alleged offender as till the results are available, there can be no certainty with regard to the kind and quantity of the contraband, allegedly recovered. In such cases, the accused may be released on interim bail, if there is likelihood of delay. In **Inderjit Singh alias Laddi Versus State of Punjab (P&H) DB, RCR (Criminal) 953**, it has been observed by our own Honorable High Court that the Presiding Officer of a Special Court dealing with NDPS cases, where ever the need is felt and where the matter is being unnecessarily delayed may grant interim bail till the receipt of the FSL report and thereafter, considered the case after the receipt of the report.

8. Applying the aforesaid parameters of law to the facts of the present case, the Court is of the opinion that it is a fit case for grant of relief of interim bail till presentation/ receipt of challan/report of

Chemical Examiner by the police. Thus, subject to the contents and their quantity that may be found in the report of Chemical Examiner, the accused/ applicant is admitted to **interim bail** till presentation/receipt of challan/ chemical report subject to his furnishing bail bonds in the sum of Rs.1,00,000/- with one surety in the like amount and the following conditions :-

- i. That the applicant will make himself available in the investigation of the case, as and when required;
- ii. That the applicant will not tamper with the prosecution evidence; and
- iii. That the applicant will not leave the country without prior permission of the court.

At this stage, Ld. Counsel for the accused has requested to release the accused on personal bonds in view of the prevailing Covid 19 situation. The request is considered and allowed. In the current scenario due to curfew and movement restrictions, it may not be possible for the any person to has forward on behalf of the accused to furnish bail bonds. Accordingly, in view of prevailing Covid-19 condition, the accused **Jimmi Kumar, above named**, is ordered to be released on bail on furnishing personal bonds in the sum of **Rs.1,00,000/-** without any surety. Surety bond is not insisted upon due to Covid-19 pandemic. Since personal presence of applicant-accused cannot be secured in the court in such difficult times, it is ordered that Jail Superintendent shall obtain

personal bond from the applicant-accused in the Jail. The Attested copy of this order and conditional release warrant be sent to Superintendent, Central Jail Kapurthala. Further the Superintendent, Central Jail, Kapurthala is directed to send the personal bond after being attested to the Court at the earliest. The copy of this order be sent to the Jail Superintendent, Kapurthala, for necessary compliance. Upon resumption of normal condition in courts, bail bonds with surety bonds shall be furnished within 15 days thereafter by the accused.

9. The learned Additional PP for the State/ Investigating Officer is directed to ensure that the report of Chemical Examiner be produced in the Court immediately on its receipt. **Further, it is made clear that this relief of interim bail will subsist only till the receipt of Chemical report, whereupon the applicant/accused shall surrender before the court and file regular bail application, which shall be disposed of on merits in the light of report of FSL. Police record be returned. The bail application file be tagged with the remand papers.**

Pronounced in open court.

Dt.14.05.2020

**sunil shukla*

**(Varun Nagpal),
Addl. Sessions Judge, Jalandhar,
(UID No. PB0204).**

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CNR No.	PBJL010045362020

Present: Sh. N. S. Minhas, counsel for the accused/applicant.
Sh. Rishi Bhardwaj Addl. PP for the State.

Arguments heard. Vide my separate detailed order of today, the regular bail application filed under section 439 Cr.P.C. filed on behalf of the accused/ applicant **Jimmi Kumar** is dismissed. However, he is admitted to interim bail till presentation/receipt of challan/report. Police record be returned. The bail application file be tagged with the remand papers.

Pronounced in open court.
Dt.14.05.2020

**sunil shukla*

(Varun Nagpal),
Addl. Sessions Judge, Jalandhar,
(UID No. PB0204).