

In the Court of Mrs. Anjana, Judge, Special Court,
Moga.

CIS No.BA/2321/2021
CNR No.PBMO01005998-2021
Date of Decision: 01.11.2021

State of Punjab

Versus

Jiwan Singh alias Jimmy son of Jarnail Singh son of Kaka Singh resident of
Gill Patti, Chuhar Chak, District Moga.

.....Accused/Applicant

FIR No.77 dated 08.09.2021
Under section 22/29/61/85 of NDPS Act,
P.S. Ajitwal.

(Bail Application U/s 439 Cr.PC for grant of interim bail)

Present: Sh. RPS Sidhu Advocate, for applicant/accused
Sh.Amrit Mittal Addl.PP for the State

O R D E R

1. This order of mine shall dispose of the interim bail application filed by the above referred applicant in a case bearing FIR No.77 dated 08.09.2021, Under section 22, 29 of NDPS Act, registered at P.S Ajitwal.
2. In pursuance of the notice of the bail application having been issued, learned Addl.P.P. for the State Sh. Amrit Mittal has put in appearance. Police record received and perused.
3. The learned counsel for the applicant/accused has vehemently argued that applicant-accused has been falsely implicated in the present case. The applicant-accused has not committed any offence as alleged. According to prosecution version, 180 loose tablets were allegedly recovered from the accused/applicant. Now, nothing is to be recovered from the accused/applicant. The accused/applicant is in judicial custody since 08.09.2021. It will take long time to put in the challan in the court and to conclude its trial and no useful purpose would be served by detaining the applicant/accused further behind the bars. The accused/applicant will abide-by all the terms and

conditions as imposed by this court. Lastly, prayer has been made for acceptance of the bail application.

4. On the other hand, learned Addl. PP for the State has opposed the bail application on the ground that applicant/accused is guilty of a heinous crime and as such, he should not be released on bail merely on the ground that report of chemical examiner has not been received so far. In case, he is released on bail, he would abscond from the hands of justice. Lastly, prayer has been made for dismissal of the bail application.

5. After hearing the respective contentions of both the sides and having gone through the record carefully, I have of this considered view that the contentions raised by the learned counsel for the accused/applicant are found to be merits acceptance. From the perusal of record, it shows that in the instant case, recovery of 180 loose tablets was effected from the accused/applicant on 08.09.2021 and since then, he is in judicial custody. Hence, this court is of the opinion that challan of the case has not been presented so far and even report of chemical examiner has not been received so far. Even during pendency of present bail application directions were issued to the prosecution to produce the report of Chemical Examiner but to no effect. Unless and until report is received from the office of chemical examiner, contents and quantity of contraband can not be determined and at present accused/applicant is in judicial custody merely on the basis suspicion of Investigating Officer that 180 loose tablets recovered from the spot was some narcotic or psychotropic substance. In these circumstances, it would not be proper and justified to keep the applicant/accused in custody for an indefinite period till the report of chemical examiner is received. This view of mine finds support in law laid down by Hon'ble Punjab & Haryana High Court in case titled **Inderjeet Singh alias Laddi and others Vs State of Punjab 2014(3) RCR(Criminal) 953**. In view of my discussion above and law laid down by Hon'ble Punjab & Haryana High Court, it is a fit case where interim bail should be granted to the applicant/accused, subject to the following terms and conditions:-

- 1) Applicant shall furnish his bail bonds to the tune of Rs.50,000/- with one surety in the like amount.
- 2) Applicant shall appear in the court on each and every date of hearing.
- 3) Applicant shall not leave the country without prior permission of the

court.

- 4) Applicant shall surrender before the court in case report of chemical examiner is against him and in that eventuality, prosecution would also be at liberty to move an application for cancellation of the bail.

Bail application stands allowed accordingly. However, it is made clear that after complying with above said terms and conditions, applicant/accused would be at liberty to file fresh bail application for his regular bail as in that eventuality, the quantity of prohibited drug would be one of the guiding factors for consideration of the bail application. Without expressing anything on the merits of the case, the instant application stands disposed of, in the terms stated above. Papers be attached with relevant record.

Pronounced.
01.11.2021
(Sunny Stenographer II)

(Anjana)
Judge, Special Court,
Moga. ***(UID No.PB-0448)***

Present: Sh. RPS Sidhu Advocate, for applicant/accused
Sh.Amrit Mittal Addl.PP for the State

Police record received and perused. Arguments heard. Vide my separate order of even date, the interim bail application stands allowed. Police record be returned. Papers be attached with relevant record.

Pronounced.
01.11.2021
(Sunny Stenographer II)

(Anjana)
Judge, Special Court,
Moga. (**UID No.PB-0448**)