

**IN THE COURT OF SH. DEVINDER KUMAR GUPTA, JUDGE
SPECIAL COURT, SAS NAGAR (UID NO. PB00520)**

Bail application No. 202 of 14.08.2020
Filing ID no. 1476 of 2020
CNR No. PBSA01-004383-2020
Date of Decision: 19.08.2020

Tushant Chauhan @ Himanshu aged 20 years son of Arun Kumar,
resident of Ward No. 14, Kurali, Tehsil Kharar, District SAS Nagar,
(Mohali).

.....Accused/applicant.

Versus

State of Punjab.

.....Respondent.

FIR No. 55 dated 12.07.2020
under Sections: 21-61-85 of NDPS Act &
Section 25-54-59 of Arms Act
P.S. City Kurali, District S.A.S. Nagar, (Mohali).

Bail Application under Section 439 Cr.P.C.

Present: Sh. Dalip Singh, Advocate, counsel for the
accused/applicant.
Sh. S.S. Sahota, learned Addl. PP for the State.

ORDER

This order of mine shall dispose of above mentioned bail
application moved by accused/applicant Tushant Chauhan @ Himanshu in
the above noted case.

Record of investigation produced and perused. Heard.

As per prosecution allegations, on 12.07.2020, accused
Navdeep Singh and Tushant Chauhan alias Himanshu were travelling in
the car Wagnor bearing registration no. PB-12-M-0267, which was driven
by accused Navdeep Singh whereas accused Tushant Chauhan @

Himanshu was sitting on the conductor seat. During checking, 25 grams of Heroin (white powder) was recovered from the empty place adjoining to the gear box of the said car.

During investigation, accused Navdeep Singh suffered a disclosure statement under Section 27 of Evidence Act and on the basis of his disclosure statement, one revolver 2.2 M and 36 Bullets of 2.2 M and one Kirch were recovered from him.

Learned counsel for the applicant/accused has vehemently contended that the accused has been falsely implicated in this case. He further argued that nothing has been recovered from him. He further argued that report of FSL has not been received till date and the accused/applicant is in custody since 12.0.2020. He further argued that receipt of report of FSL and presentation of challan and thereafter conclusion of trial will take a long time and no useful purpose would be served by detaining the accused/applicant further behind the bars indefinitely and prayed for grant of interim bail to the accused/applicant till the receipt of FSL. 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.

On the other hand, learned Addl. PP for the State has opposed the bail application on the ground that accused/applicant is guilty of a heinous crime and as such, he is not entitled for interim bail. Lastly, prayer has been made for dismissal of the bail application.

After hearing the rival contentions and after perusing the record of the case, I am of the considered opinion that the

accused/applicant is entitled to concession of interim bail at this stage. From the perusal of the police record as well as remand papers, it shows that as per prosecution allegations, recovery of 25 grams of Heroin, one revolver 2.2 M and 36 Bullets of 2.2 M and one Kirch has been effected from the accused/applicant and his co-accused. The accused/applicant is in custody since 12.07.2020. Challan of the case has not been presented so far and even report of chemical examiner has not been received so far. Unless and until report is received from the office of Chemical examiner, contents of contraband can not be determined and at present accused/applicant is in judicial custody merely on the basis suspicion of investigating officer that material recovered from accused/applicant was some narcotic or psychotropic substance. In these circumstances, it would not be proper and justified to keep the accused/applicant 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 and Haryana High Court in case titled as "**Inderjit Singh @ Laddi Vs. State of Punjab 2014 (3) RCR (Criminal) 953**". In view of my discussion above and law laid down by Hon'ble Punjab and Haryana High Court, it is a fit case where interim bail should be granted to the accused/applicant. Accordingly, accused/applicant is ordered to be released on **interim bail** on furnishing bail bonds in the sum of Rs.1 Lakh with one surety in the like amount with the following conditions:

- i) That the applicant/accused shall remain present before the court on each and every date of hearing.
- ii) That the applicant/accused shall not leave India without the

prior permission of the court.

iii) That the applicant/accused shall not influence or intimidate any of the prosecution witnesses in any manner whatsoever.

iv) That the applicant/accused shall not commit similar offence in future.

v) That this order of interim bail is subject to the result of the chemical examiner.

At this stage, learned counsel for applicant/accused has prayed before this Court that applicant/accused is not in a position to produce surety etc. due to the prevailing situation on account of the outbreak of Pandemic Covid-19. A request is also made that he may be ordered to be released on his furnishing personal bonds and that the applicant/accused shall furnish surety bond at the appropriate stage. Keeping in view prayer of learned counsel for applicant/accused, at this stage, applicant/accused is ordered to be released on bail on his furnishing personal bond, in jail, in the sum of Rs.1,00,000/- and his personal bonds shall be countersigned by Superintendent/Incharge of the jail concerned. Superintendent/Incharge of jail concerned, shall send the said personal bonds to this Court/Duty Judge, SAS Nagar (Mohali) within 10 days from the date of furnishing personal bonds by applicant/accused. It is made clear that applicant/accused shall produce surety, who shall furnish surety bond in the sum of Rs.1,00,000/- in the Court concerned, within 10 days when the situation in the state turns normal in respect of COVID-19 to the satisfaction of the Court concerned. Copy of the order be sent to the concerned Jail Superintendent, for necessary action, compliance and

information.

Anything said in this order, shall not affect the merits of the main trial. Police record be returned. Bail application is ordered to be tagged with the remand papers.

Pronounced:
19.08.2020

(Devinder Kumar Gupta)
Judge, Special Court,
S.A.S. Nagar, (Mohali).
(UID No.PB00520)

Bhupinder Singh, Stenographer II