

PBTT010000292024



Presented on : 02-01-2024

Registered on : 03-01-2024

Decided on : 05-01-2024

Duration : 0 years, 0 months, 3 days

In the Court of Shri Prashant Verma,
Judge Special Court, Tarn Taran
(UID No. 0236)

Case Type	BA
Filing Number	22/2024
Registration number	02/2024
CNR Number	PB-TT-01-000029-2024
Date of Decision	05.01.2024

Mintu Singh, aged 26 years son of Dilbagh Singh, resident of village Mari Megha, Tehsil Patti, District Tarn Taran.

.....*Accused/applicant.*

Vs.

State of Punjab.

Ist Bail Application under Section 439 Cr.P.C.

F.I.R .No.85 dated 07.12.2023

Under Section21(B) of NDPS Act.

Police StationKacha Pacca

* * * *

Present:

Sh.K.S. Mand, Adv for applicant/accused.

Sh. Ravinder Singh Chandi, APP for the State/respondent.

ASI Kashmir Singh, Belt No.462/TT along with record.

ORDER

1. Accused/applicant has approached this Court with first application for grant of regular bail in afore referred FIR, who is presently in custody since 07.12.2023.

2. The very substance of the application being that

applicant/accused had been falsely implicated in this case. He is innocent and has never committed any offence. No recovery had been effected from the accused-applicant. He had nothing to do with the alleged crime. Besides that, it was contended by Ld Counsel for the applicant that despite of being in custody for a sizable period, the report of the Chemical Examiner has not been received so far.

3. Pursuant to the notice to the State, the learned Addl. Public Prosecutor for the State contested the claim of the applicant on the ground that the applicant/accused is culpable under the stringent provisions of Narcotic Drugs and Psychotropic Substances Act, 1985 and consequently should be denied the concession of bail.

4 Statement of ASI Kashmir Singh Belt no. 462/TT, Police Station Kacha Pacca was recorded. Examination of record shows that recovery of 25 grams of Heroin had been stately effected from the possession of the applicant/accused. It was also informed that the report of the chemical examiner has not been received so far.

5 A separate certificate was given prosecution declaring that no other bail application in the present case was pending in any other Superior Court. A similar report in this regard was made by the ahlmad of the Court.

6 Having traversed through the fundamental aspects relevant for the determination of the application at hand, the Court at this juncture is cognizant of judgment passed by Hon'ble Punjab and Haryana High Court titled as ***Inderjit Singh @ Laadi and others versus State of Punjab***” reported in ***2014(3) Recent Criminal Reports 953***. It has been held in paragraph number 54 that the Presiding Officer of Special Court

dealing with the NDPS Act cases, whenever need is felt and where the matter is being unnecessarily delayed, may grant interim bail till the receipt of the Chemical Examiner report and thereafter, may consider the case after the receipt of report.

7. As the version of the prosecution goes, the applicant-accused was arrested essentially under section 21 of the NDPS Act. The accused-applicant was arrested on 07.12.2023 and since then he is in custody. It is more of an acknowledged fact that report of Chemical Examiner has not yet been received.

8 Needless to say, in such a peculiar scenario, the exact nature of the recovered substance from the possession of accused can be determined in definitive terms only on the receipt of the report of the Chemical Examiner which is still awaited so far. Till the report is received, the claim of the investigating agency of having recovered banned narcotic/psychotropic or any other substance under the Narcotic Drugs and Psychotropic Substances Act 1985 remains more of an assumption with missing element of certainty. The prosecution could not even draw a tentative time-frame within which the report of the Chemical Examiner is likely to be received. Since the matter is being unnecessarily delayed and receipt of report of Chemical Examiner is likely to take time, the case at hand falls within the purview of the operation of the enabling provisions of the cited judgment. If evaluated from another dimension, the recovery of 25 grams of heroin falls within intermediate quantity, even if the version of the investigating officer is to be taken as axiomatic.

9 Hence in the peculiar circumstances, the applicant-accused is ordered to be released on *interim bail* till the presentation of

challan/report of Chemical Examiner, on his furnishing bail bonds in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the concerned Learned Court/Illaqa/Duty Magistrate, subject to the following conditions:

1. *That he shall attend the Court on each and every date of hearing;*
2. *That he shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected;*
3. *That he shall not directly or indirectly make an inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence; and*
4. *That he shall not leave the country without prior permission of Court.*

10. It is further clarified that this order shall remain operative subject to the receipt of report from chemical examination about the examination and nature of contents of the narcotic/psychotropic/intoxicating substance recovered from the possession of the accused and in case the same happens to be commercial quantity, the order of interim bail shall be deemed to have become inoperative/defunct forthwith.

11. Papers be annexed with the main bail application/challan/record. Bail bonds not furnished.

***Pronounced:
Dated: 05.01.2024***

***Prashant Verma,
Judge Special Court,
Tarn Taran.
UID No. PB0236***