

**In the court of Mrs. Anjana, Judge, Special Court, Hoshiarpur
UID No. PB0448**

CIS No.BA: 1976 of 2024
CNR No.PBHO0100 6076 2024
Date of Decision: 29.07.2024

State vs Ankush Kumar @ Dhaiso aged 28 years son
of Sudershan Kumar, r/o H.No.B-1-1920,
Gumiyara Wali Gali, Bahadurpur, Tehsil and
District Hoshiarpur.
....Applicant/Accused.

FIR No.200 dated 16.06.2024
U/S 22, 29 of NDPS Act.
PS: City, Hoshiarpur

Bail Application under Section 439 Cr.P.C

Present: Sh. SR Dhir Advocate for applicant/accused
Sh. Charanjit Singh Addl. PP for State

ORDER

This order of mine shall dispose of the present bail application
filed by above referred applicant under section 439 Cr. PC in above said
FIR.

2. In pursuance of the notice of the bail application having been
issued learned Addl. PP for the State, has put in appearance. Record has been
produced.

3. The learned counsel for the applicant/accused has vehemently
contended that the accused has been falsely implicated in this case. The
alleged recovery of 75 gm powder was made from the house and in the
videography, he is seen to be taken from the house by police. As per FIR, the
recovery was from the pant of accused, but as per videography, accused was

(Anjana)
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wearing capri at that time. The accused/applicant is in judicial custody since 16.06.2024. Report of chemical examiner has not been received yet and in the absence of same, it cannot be said that the alleged recovery falls under NDPS Act. Presentation of challan will take time 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. Perusal of file shows that on 16.06.2024, SI Mahavir Singh along with his police party apprehended accused and from the possession of accused, 75 grams intoxicant powder was recovered. Drug money of Rs.13,700/- was also recovered. 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 and quantity of contraband recovered from the accused/applicant can not be determined and at present accused/applicant is in judicial custody merely on the basis suspicion of Investigating Officer that recovered substance was of 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 on his furnishing bail bonds in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of Illaqa Magistrate/Duty Magistrate, with the conditions that applicant shall appear in the court on each and every date of hearing, applicant shall not leave the country without prior permission of the court and that ***on the receipt of FSL report, if the quantity of contraband is found to be commercial in nature, in that event, the applicant shall surrender in the court within the period of 15 days. In case the applicant fails to surrender within the stipulated period, the interim bail order shall cease to have effect.***

6. 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. The Illaqa Magistrate/Duty Magistrate is directed to send the bail/surety bonds furnished by applicant/accused to this court. Record of this bail application be annexed with the remand papers.

Pronounced.
29.07.2024
baljinder

(Anjana),
Judge, Special Court,
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Present: Sh. SR Dhir Advocate for applicant/accused
Sh. Charanjit Singh Addl. PP for State

Learned counsel for applicant moved application for correction in the facts of interim bail application as recovery has been wrongly written as 150 capsules in stead of 75 gm intoxicant powder, due to typographical error. The correction being typographical and general in nature, application stands allowed and amended application is taken on record. Arguments heard. Vide my separate order of even date, the present bail application stands disposed of. Record of this bail application be annexed with the remand papers.

Pronounced.
29.07.2024
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