

**IN THE COURT OF ATUL KASANA,
JUDGE SPECIAL COURT, MOGA
(UID No. PB0085).**

CNR No. PBMO010051632022

CIS No. BA 1998/ 2022

Decided on: 30.9.2022

State of Punjab

VERSUS

Lakhwinder Singh alias Nikka son of Swaran Singh son of Dalip Singh,
resident of Thana Basti, Nihal Singh Wala, District Moga.

.... Applicant/Accused

FIR No. 87 dated 28.7.2022

U/s: 22, 29, 61, 85 of NDPS Act

P.S. Smalsar.

**Application under Section 438 Cr.PC
for grant of anticipatory bail.**

Present : Sh. AS Brar Advocate counsel for the applicant-accused
Sh. Sahib Singh Addl. PP for State

ORDER

1. This order of mine shall dispose of bail application under Section 438 Cr.PC filed by the applicant-accused named above in case.
2. Notice of the bail application was issued to the State and have perused the record.
3. Learned counsel for the applicant submits that applicant-accused has been falsely implicated in this case and that he has not committed any offence. He further submits that his name is not mentioned in the FIR and that he has been nominated in this case on the

basis of disclosure made by co-accused Bittu Singh from whose possession, recovery of 100 strips each containing 10 tablets of Trakem 100 and 30 strips each containing 10 tablets of Clonazepam and Escitalopram Oxalate Tablets was effected. He further submits that recovery has already been effected from the co-accused and that nothing is to be recovered from him and that custodial interrogation of the accused-applicant is not required as he has already joined the investigation. On these submissions, he prayed for acceptance of bail application.

2. On the other hand learned Addl.PP has submitted that applicant-accused has supplied the recovered heroin to his co-accused. However he submits that as per investigating officer, the applicant-accused has joined the investigation and he is no more required for further investigation.

5. As per allegations in the FIR, on 28.7.2022, 100 strips each containing 10 tablets of Trakem 100 and 30 strips each containing 10 tablets of Clonazepam and Escitalopram Oxalate Tablets has been recovered from co-accused Bittu Singh. The present accused-applicant has been nominated in the present case under Section 29 of NDPS Act, on the basis of disclosure statement made by co-accused Bittu Singh, from whose possession the alleged recovery has been effected. Nothing has been recovered from the possession of accused-applicant. As per statement suffered by ASI Satnam Kaur, accused/applicant has since joined investigation and that his custodial interrogation is not required. The contention of the counsel for the applicant is that it is only the statement of the co-accused, which is the sole material with the police on the basis of which, the present applicant has been nominated. It is yet debatable, if infact, the accused/applicant had any role to play in the

commission of the offence. The entire facts and circumstances do not make out the case for custodial interrogation of the accused/applicant.

6. Keeping in view the facts and circumstances, without commenting on the merits of the case, interim bail granted to accused/applicant vide order dated 22.9.2022 is hereby confirmed and made absolute subject to following conditions:-

- i) The applicant shall join the investigation as and when asked by the Investigating Officer.
2. The applicant shall not tamper with the prosecution evidence.
3. The applicant shall not leave the country without prior permission of the court.

7. The anticipatory bail application accordingly stands allowed. Intimation be sent to SHO of concerned Police Station. Police record be returned forthwith, while this file be tagged with the main challan.

Date of order:30.09.2022

(Sushil Bajaj, Stenographer G-II)

**(Atul Kasana),
Judge, Special Court,
Moga. (UID No.PB-0085)**