

**In the court of Sardar Harjeet Singh, Judge, Special Court,
Moga. (UID No.PB0131)**

CIS No.BA/20/2023
CNR No.PBMO010000682023
Date of Order:- 17.01.2023

State of Punjab

Versus

Amritpal Singh alias Pandit son of Raj Singh son of Gulzar Singh resident of
Bhinder Kalan,

....Accused/Applicant

FIR No.93 dated 27.10.2022
U/ss 21/22/61/85 of NDPS Act (later on added Section
29 of the NDPS Act.
P.S. Ajitwal, Moga

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Bail Application under Section 439 Cr.PC.

Present: Sh. Rajesh Sood Advocate for applicant/accused
Sh. Anshuman Syal Addl.PP for the State

ORDER

Vide this order, I intend to dispose of bail application under
Section 439 Cr.P.C filed by applicant-accused in the FIR mentioned above.

Police record was summoned and received.

Learned counsel for accused/applicant has argued that accused/
applicant has been falsely implicated in the case in hand. A false recovery has
been planted upon the accused/applicant. The alleged recovery effected from
accused/applicant does not falls into commercial quantity. Co-accused
Harmesh Singh has already been released on interim bail by this Court.
Applicant/accused is in judicial custody since 27.10.2022. The presentation of
challan and completion of trial will take long time and prayed that applicant-
accused be released on bail.

On the other hand, learned Addl. PP for the State argued that FIR was registered on true facts. The recovery of 30 gram heroin and 280 intoxicant tablets were recovered from the accused/applicant and it is not a fit case, where concession of bail can be granted to accused/applicant and prayed that bail application be dismissed.

I have considered the submissions of learned Counsel for the applicant-accused and learned Addl. PP for the State.

Perusal of record shows that as per version the police party headed by ASI Swarnjit Singh were going from village Kokri Kalan to Kokri Heran in connection with patrolling and checking of suspected persons and when police party reached 1 km ahead from village Kokri Kalan, then two persons were seen coming on motorcycle and on seeing the police party, they tried to turn back their motorcycle but the motorcycle was slipped. They were apprehended and driver of the motorcycle disclosed his identity as Amritpal Singh and pillion rider disclosed his identity as Harmesh Singh alias Honey. Upon checking, the recovery of 30 grams heroin and 280 intoxicant tablets has been effected from upper portion of the head light of motorcycle being driven by the accused/applicant.

Although, the alleged recovery of 30 grams of heroin effected from the accused/applicant does not fall into commercial quantity but the report of Chemical Examiner qua 280 intoxicant tablets has not yet been received. Since, accused is in custody since 27.10.2022 and report of Chemical Examiner has not yet been received, as such, so nature of substance so recovered can only be ascertained on receipt of report of Chemical Examiner and at this stage, without the chemical report, it cannot be

ascertained as to whether the recovered contraband falls in the category of commercial quantity or non commercial quantity. Matter is un-necessarily being delayed and receipt of report of Chemical Examiner is likely to take time. In view of the observation made in “Inderjeet Singh @ Laddi and others Versus State of Punjab” 2014(3) Recent Criminal Reports 953, accused-applicant is ordered to be released on interim bail till receipt of the report of Chemical Examiner, on his furnishing personal bonds in the sum of ₹ 60,000/- with one surety in the like amount, with further direction that he shall not leave the country without prior permission of the Court and shall appear on each and every date of hearing.

However, it is made clear that if on receipt of report of Chemical Examiner/Forensic Science Laboratory, quantity of recovered contraband is found to be of commercial quantity under the Act, this order shall be deemed to have come to an end automatically and accused has to surrender in the Court and will be taken into custody, without any further order of cancellation of his interim bail. Bail application is accordingly disposed of. Papers be attached with remand papers.

Pronounced.
17.01.2023
(Sunny Stenographer II)

(Harjeet Singh)
Judge, Special Court,
Moga. (UID No.PB0131)

Present: Sh. Rajesh Sood Advocate for applicant/accused
Sh. Anshuman Syal Addl.PP for the State

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

Pronounced.
17.01.2023.
(Sunny Stenographer II)

(Harjeet Singh)
Judge, Special Court.
Moga. **(UID No.PB0131)**