

**IN THE COURT OF Sh. AJIT PAL SINGH
ADDITIONAL SESSIONS JUDGE, GURDASPUR.
Unique Identification Code No. (PB0226)
Vacation Judge**

Date of Institution: 19.06.2023

Date of Decision: 19.06.2023

CIS no. BA-1987-2023

FIR No. 115 dated 05.09.2022

U/S 22/29-61-85 of NDPS Act

P.S. Ghuman

Sachin son of Gurmej Singh resident of village Bhoma, Bhoja, Tehsil
Batala, District Gurdaspur.

---Accused/applicant

Versus

State of Punjab

1st bail application under Section 439 Cr.P.C.

Present: Sh. Amandeep Singh Adv., counsel for accused-applicant.
Shri K.S. Gill, Addl.P.P for the State.

ORDER

1. File put up before me being Vacation Judge. This order of mine shall dispose off bail application under Section 439 of Code of Criminal Procedure moved on behalf of above said accused/applicant Sachin in the aforementioned FIR.

2. Notice of bail application was given to State. The learned APP for the State has put in appearance. Record has been perused.

3. In brief, prosecution story is that on 05.09.2022 accused namely Jevy son of Gurmej Singh was apprehended by the police party headed by ASI Gurmukh Singh alongwith other police officials

in the vicinity of village Pandori. Upon suspicion, search of envelope was conducted, which was in the right hand of accused-applicant and 109 intoxicant tablets were recovered from him without any license or permit. Upon enquiry, the accused Jevy disclosed that he got these intoxicant tablets from his brother Sachin.

4. Learned counsel for the accused-applicant has argued that no offence has been committed by the applicant. He has been falsely implicated in the present case. The applicant is in judicial custody and he will not misuse the concession of bail and will abide by all the conditions imposed by the Court. Hence, the prayer for relief of interim bail has been made.

5. On the other hand, while controverting his contentions put forth by learned counsel for the accused/applicant, the learned Additional PP for the State has vehemently argued that accused/applicant is involved in a case of Narcotic Drugs and Psychotropic Substances Act. As allegations against the applicant are grave in nature, he does not deserve the lenience of the court in grant of relief of interim bail.

6. After hearing learned counsel for the parties and after perusing the record, it transpires that the accused-applicant was arrested on 14.05.2023 on the disclosure statement of co-accused Jevy and since then he is in judicial custody. The sample of the contraband have been sent to the FSL, but neither the report of Chemical Examiner has been received as yet, nor the challan has been presented in the Court. The

alleged recovery has already been effected from the co-accused. The prosecution will prove its case against the accused only after submission of report under Section 173 Cr. P. C. on completion of investigation. It has been settled legal proposition by now that the delay in testing the sample does result in prejudice to the alleged offender as till the results are available, there can be no certainty with regard to the kind and quantity of the contraband, allegedly recovered. In such cases, the accused may be released on interim bail, if there is likelihood of delay. In **Inderjit Singh alias Laddi Versus State of Punjab (P&H) DB, RCR (Criminal) 953**, it has been observed by our own Honorable High Court that the Presiding Officer of a Special Court dealing with NDPS cases, where ever the need is felt and where the matter is being unnecessarily delayed may grant interim bail till the receipt of the FSL report and thereafter considered the case after the receipt of the report.

7. Applying the aforesaid parameters of law to the facts of the present case, the Court is of the opinion that it is a fit case for grant of relief of interim bail till presentation/ receipt of challan/report of Chemical Examiner by the police. The applicant shall be released on following terms and conditions :-

1. That the applicant/accused shall execute a bonds of Rs. 50,000/- with one surety of the like amount.
2. The applicant/accused shall undertake, in case as per chemical examiner report, the alleged recovery from accused

is found to be commercial quantity, then in that eventuality he shall surrender before this court and interim bail granted to accused shall deemed to be canceled automatically.

3. That the applicant will make himself available in the investigation of the case, as and when required;

4. That the applicant will not tamper with the prosecution evidence and will not leave the country without prior permission of the court.

8. Without expressing anything on merits, the instant application is disposed of in terms as stated above. The learned Additional PP for the State/ Investigating Officer is directed to ensure that the report of Chemical Examiner be produced in the Court immediately on its receipt. Police record be returned. File be sent to the concerned court for further proceedings.

Pronounced in the open Court
Dated: 19.06.2023

(Ajit Pal Singh)
Vacation Judge
Gurdaspur. UID no. PB0226

Dilbag Singh Steno-II