
(2020) 08 J&K CK 0054
In the Jammu And Kashmir High Court
Case No : Bail Application No. 84 Of 2020

Kulwinder Singh

APPELLANT

Vs

Union Territory Of J&K And Others

RESPONDENT

Date of Decision : 31-08-2020

Acts Referred:

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 8, 15, 37

Citation : (2020) 08 J&K CK 0054

Hon'ble Judges : Rajnesh Oswal, J

Bench : Single Bench

Advocate : Jagpaal Singh, Ayjaz Lone

Final Decision : Disposed Off

Judgement

Rajnesh Oswal, J

1. The instant application for grant of bail in FIR No. 96/2020 for commission of offences under sections 8 and 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short the NDPS Act) registered with Police Station, Bari Brahmana has been filed by the applicant after his application for grant of bail was dismissed by the learned Sessions Judge, Samba on 23.05.2020.

2. It is stated that the applicant is respected and law abiding citizen of the country and has been arrested by the Police in false and frivolous case after registering FIR on 09.05.2020 and ever since then he is in custody. He has further stated that contraband alleged to have been recovered from the applicant is slightly more than a smaller quantity and rigors of section 37 of the NDPS Act are not applicable in the case of the applicant. He has further pleaded that he is only earning member of his family and undertakes to abide by all the conditions imposed in the event on grant of bail to him.

3. The respondent has filed objections in which it is stated that alleged contraband recovered from the applicant falls within the intermediate category and as the applicant is involved in heinous offence so he is not entitled to bail.

4. Mr. Jagpaal Singh, Advocate has, in his arguments, reiterated the grounds, as narrated in the application. He has further submitted that during the pendency of the present bail application, challan stands filed in the court of learned Sessions Judge, Samba.

5. Per contra, Mr. Ayjaz Lone, Dy. AG has argued that the learned Sessions Judge, Samba has rightly rejected the bail application and the applicant being involved in heinous offence is not entitled to concession of bail.

6. Heard and considered.

7. From the objections filed by the respondent, it is evident that on 09.05.2020 an information was received that a truck bearing No. PB11CJ-0731 broke naka and is coming towards SIDCO Chowk. At naka point on Parmandal, the police officials intercepted the said truck which was on its way from Srinagar to Punjab. On questioning, driver of the truck disclosed his name as Kulwinder Singh S/o Najar Singh R/o H.No. 129 Bhaini Kalan, Tehsil Malerkotla. On checking the truck, approximately 1-1 ½ Kg of bhukhi (poppy straw) substance was found in the truck and later on FIR No. 96/2020 (supra) for the commission of offences under sections 8 and 15 of the NDPS Act was registered.

8. This is admitted by the respondent that contraband allegedly recovered from the applicant falls within the intermediate category. Since the quantity recovered is intermediate quantity, so rigors of section 37 of the NDPS Act does not apply.

9. The respondent has not placed anything on record that the applicant is habitual offender and he was involved in similar type of offences. The investigation has culminated into filing of the challan, which clearly shows that the presence of the applicant is not required for the purpose of investigation but during the trial. The allegation against the applicant is subject to proof during the trial. Taking into consideration that the quantity of the contraband falls within the category of intermediate quantity and also challan has been filed against the applicant, this Court is of the considered opinion that the applicant deserves to be enlarged on bail.

10. For all what has been discussed above, this application is allowed.

The applicant is enlarged on bail on the following conditions:

(i) subject to furnishing of one local solvent surety to the tune of Rs. 50,000/- to the satisfaction of the trial court.

(ii) he shall furnish an undertaking that he shall intimate his whereabouts to the concerned SHO on the first day of every month.

(iii) he shall not contact with any of the prosecution witnesses during the trial and shall regularly appear before the trial court.

11. In the event of violation of any of the conditions mentioned above, the respondent can lay a motion for cancellation of bail of the applicant before the

trial court.

12. Disposed of accordingly.