

# Sukhchain Singh vs State Of Rajasthan on 31 October, 2023

**Author: Kuldeep Mathur**

**Bench: Kuldeep Mathur**

[2023:RJ-JD:36841]

(1 of 5)

[CRLMB-9286/2023]

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR

S.B. Criminal Miscellaneous 2nd Bail Application No. 9286/2023

Sukhchain Singh S/o Sh. Gurprit Singh, Aged About 25 Years,  
Vill. Moom, P.s. Mahal Kalan, Dist. Barnala (Punjab). (At Present  
Lodged In Central Jail, Sri Ganganagar).

----Petitioner

Versus

State Of Rajasthan, Through PP

----Respondent

For Petitioner(s) : Mr. Rajesh Panwar, Sr. Advocate with  
Mr. Ayush Gehlot.  
For Respondent(s) : Mr. Arun Kumar, PP.

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order 31/10/2023 This second application for bail under Section 439 Cr.P.C. has been filed by the petitioner who has been arrested in connection with FIR No.90/2021 registered at Police Station Rajiasar, District Sri Ganganagar, for the offences under Sections 8/21 and 22 of the NDPS Act.

The first bail application filed on behalf of the petitioner being S.B. Cr. Misc. Bail Application No.8571/2022 was rejected by this Court vide order dated 13.04.2023 as not pressed with liberty to file a fresh bail application after recording of statement of Seizure Officer as well as Investigating Officer before competent criminal court.

As per the prosecution, on 20.05.2021, during routine patrolling, the police team had seen a Swift Car bearing No.PB-10- FB-1982 coming from Bikaner. The said car was stopped by the [2023:RJ-JD:36841] (2 of 5) [CRLMB-9286/2023] police team. Co-accused Gur Amrit Singh was driving the said car; another co-accused Simranjeet Singh was sitting besides him whereas the present petitioner was found sitting on the back seat of the offending vehicle. On a thorough search of the car, total 39500 tablets of NRX Calviidol-100 SR Tramadol Hydrochloride weighing 13272 gms. were recovered.

Learned counsel for the petitioner submitted that the petitioner who was sitting on the back seat of the offending vehicle, had no conscious knowledge regarding the contraband being concealed in the offending vehicle or transported by co-accused persons. It was vehemently submitted that the petitioner came to know regarding the contraband being plied in the offending vehicle only when the contraband was recovered by the police on 20.05.2021.

To substantiate this contention, attention of the Court was drawn towards the statement of co-accused Sunil Kumar recorded under Section 67 of the NDPS Act wherein, he stated that the contraband recovered in the offending vehicle was supplied by him to co-accused persons namely Gur Amrit Singh and Simranjeet Singh. It was urged that co-accused Sunil Kumar, in his statement, also mentioned that he was in direct contact with co-accused person through Whats-App call. Attention of the Court was also drawn towards the statement of Investigating Officer (PW-4) recorded before competent criminal court to state that during investigation, telephonic conversation of co-accused persons has been found with another co-accused Sunil Kumar from whom, the contraband/psychotropic substance was allegedly procured.

[2023:RJ-JD:36841] (3 of 5) [CRLMB-9286/2023] Learned counsel submitted that the statements of co-accused Sunil Kumar recorded under Section 67 of the NDPS Act and the statements of Investigating Officer (PW-4) recorded before competent criminal court are sufficient to indicate that the petitioner is an innocent person and he had no knowledge about the psychotropic substance greater than commercial quantity being transported in the vehicle. It was vehemently urged that the petitioner does not have any prior criminal antecedents and merely because, the petitioner was coincidentally travelling with the co-accused persons in the offending vehicle, he cannot be imputed the knowledge regarding psychotropic substance being plied in the offending vehicle.

Lastly, learned counsel submitted that investigation against the petitioner has already been completed; there is no allegation of petitioner influencing the prosecution witnesses or tampering with the evidence; the petitioner is in judicial custody and trial is likely to consume sufficiently long time; the conditions contained in section 37 of the NDPS Act are duly satisfied, therefore, the benefit of bail should be granted to the petitioner.

Per contra, learned Public Prosecutor has vehemently opposed the bail application and submitted that petitioner who was found sitting in the offending vehicle with co-accused persons, is facing trial for the offences under the NDPS Act and, therefore, the present bail application deserves to be rejected straightway.

Heard learned counsel for the petitioner and the learned Public Prosecutor. Perused the material available on record.

Having considered the rival submissions, facts and circumstances of the case, this Court prima facie finds that though [2023:RJ-JD:36841] (4 of 5) [CRLMB-9286/2023] the petitioner was travelling in the offending vehicle with co-accused persons from whose conscious possession, psychotropic substance greater than commercial quantity has been recovered, however, the statements of Investigating Officer (PW-4) and statements of co-accused Sunil Kumar recorded under Section 67

of the NDPS Act, indicate that the psychotropic substance was procured by co-accused persons and they were in contact with Sunil Kumar in connection with trade of contraband/psychotropic substance. The argument of learned counsel for the petitioner that the petitioner was a casual passenger and he had no knowledge regarding contraband/ psychotropic substance being plied in the offending vehicle in view of aforesaid, cannot be brushed aside. This Court also prima facie finds that the petitioner does not have any prior criminal antecedent and he is in judicial custody since 20.05.2021.

In view of aforesaid, without expressing any opinion on merits/demerits of the case, this Court is of the opinion that the conditions contained in Section 37 of the NDPS are duly satisfied and therefore, the bail application filed by the petitioner deserves to be accepted.

Accordingly, the second bail application under Section 439 Cr.P.C. is allowed and it is ordered that the accused-petitioner- Sukhchain Singh S/o Sh. Gurprit Singh shall be enlarged on bail in connection with FIR No.90/2021 registered at Police Station Rajiasar, District Sri Ganganagar, provided he furnishes a personal bond in the sum of Rs.1,00,000/- with two sureties of Rs.50,000/- each to the satisfaction of the learned trial Judge for his [2023:RJ-JD:36841] (5 of 5) [CRLMB-9286/2023] appearance before the court concerned on all the dates of hearing as and when called upon to so.

It is however, made clear that findings recorded/observations made above are for limited purposes of adjudication of bail application. The trial court shall not get prejudiced by the same.

(KULDEEP MATHUR),J 3-Tikam/-

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