

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

107

CRM-M-43959-2024

DATE OF DECISION: 05.09.2024

BALJINDER SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sukhwinder S. Aviraj, Advocate for the petitioner(s).
Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 482 of The Bharatiya Nagarik Suraksha Sanhita, 2023 has been invoked seeking the concession for the grant of anticipatory bail to the petitioner in FIR No.10 dated 20.01.2024, under Sections 21(b), 29 of the The Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Sadar, Gurdaspur.

2. Prosecution story set up in the present case as per the version in the FIR read as under :-

‘To the Incharge Police Station Sadar Gurdaspur, Today, 1 ASI alongwith ASI Tilak Raj No.1120, ASI Malkeet Singh No. 194, PHC Gurvinder Singh No.813, CT Ravinder Singh No.78, in Government Vehicle No. PB-06-AK-0962 whose driver was PHC Gurmukh Singh No.84 were on patrolling duty in regards to bad elements at Hardoshania Bypass Chownk, Gurdaspur and had installed barriers for checking the ongoing vehicles then from the side of Varsola one Motor Cycle Number, PB-06-X-



2967 Make Discover Color Black blue lines on which 4 youngsters were riding on high speed, I along with ASI asked them to stop the vehicle by pointing my torch at them however upon seeing the police party they tried to flee from the spot by turning the bike and then I along with ASI stopped them with their bike. Upon checking the motorcyle, from the toolbox a waxy polythene containing Heroine was found. I then told the said youngsters about myself and my rank and asked them about their names and residence. The driver of the motorcycle told his name as Bhavdeep Singh son of Kashmir Singh, resident of Narpur and the other pillion Kashmir Singh, resident of Narpur and the other pillion riders told their name and residences as Bikramjeet Singh son of Baldev Singh, residence of Chor Sidhwan, Hardeep Singh son of Satnam Singh resident of Kala Nangal and Balwinder Singh son of Balbir Singh, resident of Chor Sidhwa. I asked them about the recovered polythene bag and they told me that this is Heroine. Before inspecting the recovered polythene bag, an independent public witness could not be found due to it being late night. Then, I ASI alongwith other officials recovered wax coloured polythene bag and it checked and found it to be ordinary Heroine. The recovered Heroine in wax coloured white polythene bag was measured on scale and it came to be .35 gm of Heroine which was then kept in a plastic box and sealed it with my initial HS. Sample was separately prepared and which was taken into police possession and after using the stamp same was handed over to ASI Tilak Raj No.1120 and the motorcycle bearing No.PB-06-X-2967, Discover colour black was also taken into police custody. Inventory Form will be filled in the presence of Hon'ble Judge. Accused Pavdeep Singh son of Kashmir Singh resident of Narpur, Bikramjeet Singh son of Baldev Singh residence of Chorsidhwa, Hardeep Singh son of Satnam Singh resident of Kala Nangal and Balwinder Singh son of Balbir Singh resident of Chor Sidhwa have committed an offence under Section 21(B),



61, 85 NDPS Act by keeping 35 gms of Heroine in their possession in a wax colour polythene bag. Ruka written and sent through CT Ravinder Singh No. 78 to Police Station for registration of case and after registration the number be informed and thereafter special reports be issued and the same be sent to Magistrate Sahab and the senior officials. The information be sent to Control Room through Wireless. I, ASI along with other officials is busy in investigation. Sd/. Harminder Singh ASI Police Station Sadar Gurdaspur Dated 20.01.2024.'

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case and was nominated in this FIR on the basis of disclosure statement dated 22.01.2024 made by one of the co-accused Bikramjeet Singh. He submits that the petitioner was not apprehended at the alleged spot of occurrence whereas four of the co-accused persons were apprehended by the police and .35 grams of Heroin was also recovered from them which is non-commercial in nature from the alleged spot of occurrence.

On behalf of the State

Learned State Counsel appearing on advance notice on instructions from Investigating Officer opposes the prayer for grant of anticipatory bail on the ground that as per the disclosure statement made by co-accused Bikramjit Singh, the petitioner was the supplier of the recovered contraband, therefore, in view of the serious allegations levelled against the petitioner, he seeks dismissal of the petition.



4. **Analysis**

Be that as it may, after given a thoughtful consideration to the submissions made, by counsel for the petitioner that nothing has been recovered from the conscious possession of the petitioner; he was not arrested at the spot and was nominated only on the basis of disclosure statement made by one of the co-accused and except that no incriminating material has been produced by counsel for the State, hence, this Court finds no reason to deny the petitioner the concession of anticipatory bail wherein the petitioner has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

5. **Decision**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail subject to him joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person



acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stand cancelled.

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

05.09.2024
anuradha

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>