



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45918-2024
DECIDED ON: 16.09.2024

ABHIMANYU
.....PETITIONER

VERSUS

STATE OF HARYANA
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gourav Jain, Advocate
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought
- The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.149, dated 03.08.2024, under Sections 21(b) of NDPS Act, 1985, registered at Police Station Jakhal, District Fatehabad.
2. Prosecution story setup in the present case as per the version in the FIR as under:-

“To, SHO, Police Station Jakhal, Jai Hind. Today, I ASI along with ESI Rameshr Das No. 157/FTB, SPO Gurmeet Singh No. 67, HGH Satguru No. 2140 with laptop printer upon vehicle Government Bolero No. HR22GV-7809 driver SPO Avtar Singh No. 163 were going for patrolling from Jakhal Railway Station to Nayak Basti Jakhal. At around 12.30 PM, when they reached near the water tank from Jakhal Railway Station to Nayak Basti

Jakhal, Abhimanyu alias Manna son of Dhuliya resident of Gurdwara Basti Jakhal, who was coming from Nayak Basti Jakhal, was seen coming. Whom I, ASI already knows. On seeing the police vehicle, he immediately turned back and started walking with fast steps. He had a black polythene bag and a mobile in his right hand. On the basis of suspicion, with the help of fellow employees, we tried to overpower him but he ran away from the spot at a very high speed. He slipped on the bricks lying there and fell down and then got up and ran away. During this, a black polythene bag and a mobile phone held in the right hand of Abhimanyu alias Manna fell on the spot. During this time, Sukhchain Singh alias Chaini son of Major Singh son of Jeet Singh resident Kangarh Tehsil Budhlada District Mansa Punjab also reached the spot. On suspecting that the black polythene bag which fell from the hand of Abhimanyu alias Manna contained some intoxicant, I, ASI contacted Sh. Inder Singh ETO Fatehabad on mobile number 9416080240 at 02.33 PM from my personal phone number 9812446812 and informed him about the situation and requested him to reach the spot. After waiting for some time at 05.45 PM Shri Inder Singh ETO Fatehabad Baswari upon government vehicle arrived at the spot. Then I, ASI informed Inder Singh ETO Fatehabad about the situation and after searching the ASI, Inder Singh ETO Fatehabad ordered to search the plastic polythene bag colour black. On which the ASI opened the plastic polythene bag and checked it and found heroin in a transparent plastic pouch. The ASI at the same time made arrangements for an electronic scale and weighed the heroin along with the transparent plastic pouch and it contained 6.50 grams of heroin. After putting the Heroin along with the transparent plastic pouch in the same polythene color

black bag, I, ASI stamped it with his seal KK and prepared the sample seal separately. After preparing the Palanda of the recovered mobile, the ASI stamped it with his seal KK and prepared the sample seal separately. And Inder Singh ETO Fatehabad stamped the Palanda Heroin, Palanda mobile and sample seal with his seal IS. The stamped Palanda Heroin with sample seal and the stamped Palanda phone with sample seal were taken into possession by the police as evidence through property seizure memo and the witnesses signed on the property seizure memo. Inder Singh ETO Fatehabad verified the Palanda cloth heroin and Palanda phone and property form with sample seal. The ASI handed over the sample seal for use and keeping after the seal to ESI Rameshwar Das No. 157/ FTB and Inder Singh ETO Fatehabad kept the sample seal for use after the seal is stamped with himself because Abhimanyu alias Manna above mentioned had in his possession 6.50 grams of Heroin along with wax pouch and had committed the crime under Section 21b-61-85 NDPS Act. Due to which, SPO Avtar Singh has lodged a complaint at Aarsal Police Station No. 163 to register the case. After registering the case, inform through the number sheet and other investigators should be sent to the spot for further investigation of the case. I am present at the spot along with ASI and my men.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that as per the prosecution story, 6.50 grams of heroin was recovered from the present petitioner, which is non-commercial in nature. He further contends that nothing has been recovered from the possession of the present petitioner,

therefore, no offence made out against the petitioner, who has been falsely implicated by the police as they were unable to catch the real culprits and the present petitioner was an easy target as there are already other FIRs against the petitioner. It has been asserted on behalf of the petitioner that he is ready and willing to join the investigation and cooperate with the investigating agency.

On behalf of the State

Learned State Counsel appearing on advance notice, opposes the prayer for grant of anticipatory bail by urging that the alleged contraband i.e. 6.50 grams of heroin was recovered from the present petitioner and is involved in number of cases, meaning thereby, he is a habitual offender.

4. **Analysis**

Be that as it may, having considered the submissions made by the respective parties and also considering the fact that the alleged contraband i.e. 6.50 grams of heroin is non-commercial in nature and the fact that the petitioner is ready and willing to join the investigation and cooperate with the investigating officer.

5. **Decision**

In the light of above, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, 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 stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

16.09.2024
Poonam Negi

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