



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47885-2024
DECIDED ON: 24.09.2024

JASWINDER SINGH @ JASSI @ JAGDEEP SINGH
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. B.S. Jatana, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

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.178, dated 02.09.2022, under Section 21(b) of NDPS Act and Section 29 of NDPS Act added later on, registered at Police Station City Budhlada, District Mansa.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Copy of ruqa, "Station House Officer, Police Station City Budhlada, Fateh, today I SI was present at police station, then Assistant Munshi Jaswinder Singh 925/ Mansa Police Station City Budhlada told that SI Jasvir Singh 542/ Mansa, SC Amarjit Singh 1265/ Mansa, SC Bajwinder Singh 1552/ Mansa were going from ITI

Chowk to Ahmedpur Road, Budhlada on private vehicle in connection with the patrolling in the City then at the end of Shri Guru Teg Bahadur Stadium, near the wall of stadium near the electricity poll in the light two young boys were sitting while seeing something in the polythene bag who have been apprehended on the basis of suspicion and their names and address have been asked. Out of them one young boy disclosed his name as Sunny @ Kali son of Bansi Singh @ Mansi son of Birbal resident of Ward no.17, Budhlada and second young boy disclosed his name as Manga Singh @ Chuha son of Wazir Singh resident of Ward no.17, Budhlada. The mouth of polythene bag in their possession was open and it seems that some intoxicating substance smack is there in it. So, regular NGO be sent at the spot for proceeding. On which I SI alongwith HC Inderjit Singh 242/ Mansa, SC Jagsir Singh 1092/ Mansa on private vehicle alongwith electronic kit reached to SI Jasvir Singh 542/ Mansa near Shri Guru Teg Bahadur Stadium for proceedings. Where SI Jasvir Singh 542/ Mansa met alongwith companions who disclosed the facts to I SI and produced both persons alongwith plastic envelop with opened mouth in their possession in which smack is clearly seen before I SI. Then I SI asked the name of first person who disclosed his name as Sunny @ Kali son of Bansi Singh @ Mansi son of Birbal resident of Ward no.17, Budhlada, his description is as under aged about 24 years, height about 5'7", dark complexion, bodily slim and active, having mark of 'Trishul' with collyrium and written 'Mahakal' in hindi language at the right forearm, healthy and second young boy disclosed his name as Manga Singh @ Chuha son of Wazir Singh resident of Ward no.17, Budhlada, his description is as under aged about 26 years, height 5'4", whitish complexion, bodily

slim and active, Muslim fashion and having mark of Mani in hindi language with collyrium at right forearm. Then I ASI checked the transparent polythene with opened mouth in the possession of Sunny @ Kali and Manga Singh @ Chuha above in which smack is clearly seen, from which smack was recovered, the weighment of which was conducted alongwith polythene which came to 25 grams smack alongwith polythene. It was put in a plastic box and converted into parcel and sealed the parcel of 25 gram smack with my seal bearing MS Sample seal prepared separately. Seal after use was handed over to HC Inderjit Singh 242/ Mansa. Sealed parcel alongwith sample seal taken into police possession vide separate recovery memo, witnesses have put their signatures on the memo. Personal search of Sunny @ Kali and Manga Singh @ Chuha conducted as per procedure one by one. From the right pocket of wearing pant of Sunny @ Kali above one smart mobile phone of Vivo company of blue colour and from the right pocket of wearing pant of Manga Singh @ Chuha above one smart mobile phone of Oppo company of silver colour were recovered. On which personal search memos have been completed. Accused Sunny @ Kali and Manga Singh @ Chuha above and witnesses put their respective signatures on the memo. Accused Sunny @ Kali and Manga Singh @ chuha above by keeping 25 grams smack in polythene in their possession committed the offence under section 21(b)/61/85 of NDPS Act. On which after writing the ruqa for registration of case against Sunny @ Kali and Manga Singh @ Chuha above is being sent to police station through SC Bajwinder Singh 1552/ Mansa. FIR number be intimated after registration of case. PCR Mansa be informed. Special reports be sent to the officers. I SI alongwith companions am busy in the

investigation at the spot. Sd/- Mela Singh ASI, Police Station City Budhlada, 02.09.2022 at boundary near Shri Guru Teg Bahadur Stadium, Budhlada at 03:30 AM.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner was falsely implicated in the present case as neither the petitioner was named in the instant FIR nor he has any concern with the alleged recovery. He further contends that nothing has been recovered from the present petitioner as whatever is the recovery, was effected from co-accused Sunny @ Kali. He further contends that no incriminating material is coming forth by the prosecution to connect the petitioner with the alleged contraband, which is non-commercial in nature.

On behalf of the State

Learned State Counsel appearing on advance notice, opposes the grant of anticipatory bail to the petitioner on the ground that the petitioner was involved in six other cases of NDPS alone. He further contends that the petitioner was nominated as an accused only on the basis of disclosure statement of co-accused and, therefore, to ascertain his misdeeds, his custodial interrogation is required at this stage.

4. **Analysis**

Be that as it may, considering the fact that the petitioner was nominated as an accused only on the basis of disclosure statement of co-accused; nothing has been recovered from the present petitioner; the alleged contraband i.e. 25 grams of smack is non-commercial in nature added with

the fact custodial interrogation of the petitioner is not required at this stage as nothing is to be recovered from him.

As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as ***“Baljinder Singh alias Rock vs. State of Punjab”*** decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would land the petitioner in a situation of denial of concession of bail.

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 10 days 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 a period of 10 days, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

24.09.2024
Poonam Negi

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