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

CRM-M-50795-2024

Date of Decision: October 09, 2024

RAHUL

....Petitioner(s)

VERSUS

STATE OF PUNJAB

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ashwani Bhati, Advocate
for the petitioner.

Mr. Malkiat Singh, DAG, Punjab.

SANDEEP MOUDGIL, J.(ORAL)**1. Relief Sought**

The jurisdiction of this Court under Section 482 Bhartiya Nagrik Suraksha Sanhita, 2023, has been invoked seeking the concession for the grant of anticipatory bail to the petitioner in FIR No.108 dated 05.08.2024 under Sections 21, 29, 61 of the NDPS Act, 1985 registered at Police Station City Sunam, District Sangrur.

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

'Copy of report. Officer In-charge Police Station City Sunam Fateh. Today I SI along with Constable Jaswinder Singh No.1259/Sangrur, Constable Gursewak Singh No.745/Sangrur Senior Constable Kulvir Singh No.1071/Sangrur travelling in official vehicle bearing



registration number PB13-BE-3707 mark Scorpio Gateway colour black driven by Senior Constable Anwar Khan No.817/Sangrur along with laptop, printer, investigation kit in regard to patrolling and checking of suspicious persons were going towards Village Gurbaksh Pura on permanent road constructed alongside Drain Sunam and when the police party reached one KM ahead of City Sunam then at around 11:40AM when a clean shaven young man was seen coming from the opposite direction walking who on seeing the vehicle of the police party coming in front of him got tensed and stopped all of a sudden and threw the plastic polythene held in his right hand in the shrubs towards his left hand side towards the drain and started to turn back who was overpowered by 1 St along with colleagues by making the official vehicle stop and getting downstairs immediately and asked his name and address who told his name to be Sukhi son of Budh Ram resident of Geeta Bhawan Road Sunam Police Station City Sunam and from inside of the polythene plastic thrown by him narcotic substance/heroin. 1 SI tried to make a private witness join in the investigation on the spot but every person asserting speculation of danger to himself refused to join in as private witness. In this manner no person could be made to join in as private witness. Then I SI prepared the notice U/s 50 NDPS Act of Sukhi on which aforesaid Sukhi affixed his signatures in Punjabi and the witnesses affixed their respective signatures. Then I SI picked up the polythene plastic transparent thrown by Sukhi in his possession from which narcotic substance heroin was recovered. Then I SI weighed the recovered narcotic substance Heroin along with plastic polythene on computerised scale which on being weighed came out to be 20 grams along with plastic polythene I SI by putting the 20 grams recovered narcotic substance Heroin along with plastic polythene in a cloth bag and by preparing exhibit stamped the same with his stamp of HS. Sample stamps were prepared separately. The stamp after use was handed over to Constable Jaswinder Singh No.1259/Sangrur. Then I SI took the stamped exhibit and the sample stamps into possession of the police through file of recovery. The signatures of the witnesses were got affixed on the file. The accused Sukhi son of Budh Ram resident of Geeta Bhawan Road Sunam Police Station City Sunam by keeping narcotic substance heroin in his possession for selling has committed offence U/s 21/61/85 NDPS Act. So by typing report against Sukhi son of Budh Ram resident of Geeta Bhawan Road Sunam Police Station City Sunam in regard to aforesaid offence and by taking print is being sent in the hands of Constable Gursewak Singh No.745/Sangrur to the police station City Sunam for getting a case registered. The case number be informed after being registered. In-charge control room



be informed through e-mail. I SI along with colleagues am present on the spot. At near Drain City Sunam Time 12:40PM. SI Har Chetan Singh No.510/Sangrur CIA Sangrur dated 05.08.2024 Mobile No.80546-01349 on receiving the report aforesaid FIR in regard to aforesaid offence was registered against Sukhi and the entry was got recorded. In-charge control room Sangrur is being informed through e-mail. Original report and case file is being sent in the hands of Constable Gursewak Singh No.745/Sangrur to SI Har Chetan Singh No.510/Sangrur CIA Sangrur on the spot for further action.'

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner was neither apprehended at the spot nor his name was mentioned in FIR. He has been falsely implicated in the instant case on the basis of disclosure statement of Sukhi from whom 20 grams of heroin was recovered. He further asserts that no recovery whatsoever has been recovered from the present petitioner.

On behalf of the State

Learned State Counsel appearing on advance notice on instructions from Investigating Officer could not controvert the aforesaid factual aspects argued on behalf of the petitioner and further has no incriminating material directly or indirectly except the disclosure statement of Sukhi attracting Section 29 of NDPS Act to connect the petitioner with the alleged recovered contraband which is non-commercial in nature.

4. Analysis

Be that as it may, after given a thoughtful consideration to the submissions made by counsel for the petitioner and whatever recovery of the



contraband effected is from co-accused Sukhi even the same is non-commercial in nature measuring 20 grams of heroin.

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 her joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, upon 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 stand allowed.

(SANDEEP MOUDGIL)
JUDGE

09.10.2024
Sangeeta

Whether reasoned/speaking:	Yes/No
Whether reportable:	Yes/No