



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-53804-2024

Date of Decision: October 28, 2024

DEEPAK SINGH

....Petitioner(s)

VERSUS

STATE OF PUNJAB

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Jaskirat Singh Dhaliwal, Advocate and
Mr. Manpreet Singh Rai, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, 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.96 dated 28.07.2024 under Sections 21(b) of NDPS Act, 1985 (Section 29 of NDPS Act added subsequently vide DDR No.12 dated 30.07.2024) registered at Police Station Sadar Bathinda, District Bathinda.

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

'Copy of Rukka "SHO PS Sadar Bathinda Fateh. Today I ASI along with ASI Rajwant Singh 21, ASI Harinder Singh 1155, LHC Veerinder Kaur 1883, SCT Gaganpreet Singh 2145 were on Govt. vehicle Number PB-65BF-7691 which



was driven by SCT Jeevanjot Singh 1863. The patrol was going to Basti No. 03 Bir Talab from Bathinda-Badal Road regarding the suspicious persons. When the police party was about 500 meters behind Basti No. 03 Bir Talab, the time would be around 06:25 PM, then at the turn of the road leading to Tibba, a young man was seen standing with a transparent envelope in his hand and who was putting his hands in the said envelope. He hurriedly started to move towards Tibba after seeing the vehicle of the police party. When I ASI went to see him after stopping the vehicle, heroin was clearly visible in the transparent envelope held in his right hand, then I ASI apprehended the young man with the help of my colleagues and tried to include an independent witness, but all of them revealed their own compulsion. Due to which no independent witness could be included, then I ASI asked the name and address of the apprehended youth, who gave his name as Hardeep Singh alias Happy son of Pala Singh, resident of Basti No. 03 Bir Talab, Bathinda. Then I ASI weighed the transparent envelope in the possession of Hardeep Singh alias Happy wherein heroin was clearly visible with the help of computer scale, which was found to contain 22 grams of heroin including the weight of the polythene. The recovered heroin in that transparent envelope was put it in a cloth bag and pulanda was prepared. Pulanda Heroin was stamped by I ASI with my seal GS. The sample seal was prepared separately. Sample seal was handed to ASI Rajwant Singh 21 after use. Recovered Pulanda of heroin along with sample seal were taken in police custody vide separate recovery memo. Witnesses signed on the memo. Videography was done at the spot. Hardeep Singh alias Happy has committed the offence u/s 21B/61/85 NDPS ACT by keeping 22 grams of heroin in his possession. Ruqa is sent through LHC Veerinder Kaur 1883 to PS Sadar Bathinda register FIR



against Hardeep Singh alias Happy. FIR be registered and the number thereof should be intimated. Special reports to be sent. DCR Bathinda and Senior officers should be informed. 1 ASI am busy investigating the matter along with my colleagues at the place of incident. Sd/- Gurmej Singh 1737/Bathinda CIA 1 Bathinda Dated 28/7/2024 at Basti No. 3 Bir Talab AT 7:30 PM. Upon receiving the ruqa, the said case was registered against the accused under the said offences and the record completion is being done. Copy of FIR"s are being prepared as special report and sent via ASI Baltej Singh 372/Bathinda to Ilaqa Magistrate and Senior Officers. DCR Bathinda is being notified through W/M. Original ruqa is being sent to ASi Gurmej Singh 1737/Bathinda through LHC.'

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He further contends that the petitioner has not been named in the present FIR and has been nominated as an accused on the basis of disclosure statement of main accused Hardeep Singh @ Happy who has already been granted the concession of bail by the trial Court. Learned counsel for the petitioner submits that rather the recovery effected is from the co-accused Hardeep Singh @ Happy which is 22 grams of heroin and the same is non-commercial in nature.

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 to bring the investigation at its proper



conclusion, custodial interrogation of the petitioner is required but could not controvert the submissions made on behalf of the petitioner.

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 Hardeep Singh @ Happy even the same is non-commercial in nature measuring 22 grams of heroin.

It is also to be taken note of the fact that the main accused namely Hardeep Singh @ Happy stands granted the concession of bail by the Judge, Special Cout (Duty), Bathinda vide order dated 28.08.2024 (Annexure P-3), there is no reason for this Court 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 his 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

28.10.2024
Sangeeta

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