



101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2450-2025
DECIDED ON: 21.01.2025

RINKU @ RINKU SINGH @ GANDHI

....PETITIONER

VERSUS

STATE OF PUNJAB

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Ms. Rashi Verma, Advocate for
Mr. Manu Loona, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J

1. RELIEF SOUGHT

The jurisdiction of this Court under Section 482 BNSS has been invoked seeking the concession for the grant of anticipatory bail to the petitioner in FIR No.57 dated 29.03.2024, under Section 21(c) of Narcotic Drugs and Psychotropic Substance Act, 1985 registered at Police Station Sadar Fazilka, District Fazilka.

2. FACTS

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

“Office of Coy Commander 'E' Coy BOP Maharsona 66 Battalion BSF District Fazilka Punjab No. BSF/66/Bn/E/Coy/Ops/FIR-Seizure/2024/75 Dated 29 March 2024 To The SHO Police Station Sadar Fazilka Distt. Fazilka (Punjab) Subject: FIRST INFORMATION REPORT (Under Section 154 CrPC) It Is to

inform that on 29 March at about 0805 hrs, BSF party led by No. Insp A Benedict (Party Comdr.), While Performing operational duties along the Indo Pakistan International Border, noticed suspicious footprints on the International Border in between Boundary Pillar No.253/4 & 253/5 During thorough search of the area, the following narcotics consignment was recovered from the spot. 2. The details of the incident are described below

01 Date and Time incident: on 29 March 2024 at about 0805 hrs. 02 Place From where consignment was recovered i) Ahead of Indo-Pak Border Fence in the general area of BOP Maharsona Ex-66 Bn BSF ii) In between Boundary Pillar No.253/4 & 253/5 iii) Distance from International Border 140 Mtrs. iv) Police Station Sadar Fazilka v) District Fazilka (Punjab) 03) Name & descriptions of property /item (s) seized from the spot (Copy of Seizure Memo attached) S.NO Seized Property/Item (s) 1) 09 Packets of contraband suspected to be Heroine, Weight in Kgs 9.720 Kgs (after sealed packing) 04) Name and Designation of the officer/BSF party by whom the seizure has been made: Sh law Kumar, AC/Coy Comdr of E Coy Ex-66 Bn BSF along with 07 Subordinate Officers incl Unit Insp (G) and 26 Other Ranks 06) Brief details of incident: On 29 March 2024 at about 0805 hrs, BSF party led by No. Insp A Benedict (Party Comdr) along with 07 Other Ranks of BOP Maharsona, Ex-66 Bn BSF while performing operational duties along the Indo-Pakistan International Border, noticed suspicious footprints on the International Border in between Boundary Pillar no.253/4 &253/5 On receipt of the above report, Sh.Law Kumar, AC/Coy Comdr of E Coy, Ex-66 Bn BSF along With 07 Subordinate Officers incl Unit Insp (G) and 26 Other Ranks of 66 Bn BSF carried out thorough search of the area. During Search, the above mentioned narcotics consignment comprising of 09 packets containing approx 9500 Gms of narcotics suspected to be Heroin (packed in plastic bags & the each packet was kept inside black socks, covered with a lungi), hidden in the fields (ahead of Indo-Pak Border Fence) Which belongs to Mangal Singh S/o Sh.

Souja Singh R/o Village Maharkewa Mansha, Police Station Sadar Fazilka, Punjab were recovered Hence, active involvement of the Mangal Singh S/o Sh. Souja Singh in the smuggling of above Narcotics consignment cannot be ruled out. 3. in view of all above, it is requested to lodge an FIR against the above incident activity under NDPS Act and initiate a strong legal action against the above mentioned delinquent as applicable 4. A copy of the FIR of the instant case/along with a formal receipt of the Seizure Memo be provided to this office for our record purposes and subsequently outcome of this case may also be intimated to this office for further intimation to our Higher Headquarters 5. Kindly acknowledge the receipt of this letter, Please SD/- Insp Athili Benedict BOP Maharsona 'E' Coy 66 Bn BSF Date 29-03-2024.”

3. SUBMISSIONS

ON BEHALF OF PETITIONER

Learned counsel for the petitioner has contended that the petitioner has been nominated as an accused in the present case on the basis of disclosure statement suffered by his co-accused namely Harjinder Singh, apart from that there is no other incriminating material against the petitioner to connect him in the commissioning of offence. Moreover, no recovery has been affected from the conscious possession of the present petitioner, hence, the prosecution has no case against the petitioner except the disclosure statement of the co-accused, which has no evidentiary value.

ON BEHALF OF RESPONDENT-STATE

Learned State counsel has vehemently opposed the prayer made in the present petition stating that the petitioner along-with other co-accused has rightly been booked under Section 29(c) of NDPS Act, as all of them

were the conspirators and were transporting the narcotics from pakistan via drone and a huge recovery of 9 kg of heroin has been effected in the present case which is commercial in nature and therefore the rigours of section 37 of NDPS Act would come into play.

Heard learned counsel for the respective parties.

4. ANALYSIS AND CONSLUSION

This court at this juncture would first delve into the provision of Section 29 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, wherein it specifically provides that, individuals can be prosecuted if they are found to be buyers or sellers of contraband, especially in the context of conspiracy or abetment related to drug offences. This section specifically addresses the penalties for those who assist or participate in a criminal conspiracy to commit an offence under the NDPS Act. It emphasizes that *"whoever abets, or is a party to a criminal conspiracy to commit an offence"* is subject to punishment under this law. Buyers or sellers though may not be found in conscious possession can be implicated under this section if there is adequate evidence demonstrating their involvement in a conspiracy related to drug trafficking.

An additional aspect that must be considered by this court is the frequent practice where individuals are implicated under Section 29 of the NDPS Act assert that they were neither present at the scene nor had any contraband in their conscious possession. Taking advantage of this defense, many such accused persons are granted bail. However, this practice needs to be addressed, as individuals targeted under Section 29 are often the primary masterminds behind the drug trafficking networks, orchestrating operations

from a distance while using others, typically those found in direct possession of the drugs, as scapegoats. Consequently, the court is of the firm opinion that in such cases, these individuals should be held equally accountable and should not be afforded any leniency.

Furthermore, the drug is a social malady, while drug addiction eats into the vitals of the society whereas drug trafficking not only eats into the vitals of the economy of a country, but illicit money generated by drug trafficking is often used for illicit activities including encouragement of terrorism. The devastating effects of narcotic drugs on any person who comes to its touch are too well known. Normally, such a person ceases to be a normal human being, and is more or less reduced to zombie living animal existences and rushing fast to meet the maker. Divine qualities of an individual who consumes narcotic drugs disappear and they are the first sacrifices one normally makes while falling prey to use of drugs. Anxiety of legislature is to prevent the adverse affect of such drugs and substances on the society.

Adverting to the merits of this case there are serious allegations against the petitioner that he along with other co accused persons has been smuggling heroin since 2022 and it was the petitioner who introduced the other co accused to this smuggling business and moreover the quantity recovered is huge i.e 9 kg of heroin which is commercial is nature therefore rigours of section 37 of NDPS Act will be attracted. Hence all these facts allows the court to reasonably conclude that the petitioner entered into a criminal conspiracy aimed at facilitating the commission of an offense.

Also this court would note that in the past one month there is unexpected surge in the petitions for the grant of bail particularly involving heroin contraband which indicates the state government's failure to curb this menace especially in the state of Punjab which is a great concern in itself as this drug malady is eating the future of this country like a termite. Hence this court being the guardian of its citizens deems it necessary that to curb this drug menace such offenders needs to be taken to task especially when the lives of the country's youth its future, are at risk.

In the light of above, discussions made and the modus operandi of the kingpins engaged in illicit activities, must be met with unwavering resolve and stringent action. The intent of the legislature and the sanctity of the rule of law must be upheld at all costs, and cannot be allowed to be undermined, regardless of the quantity involved.

Keeping in view the afore-said facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail.

Hence, the present petition is hereby, dismissed.

(SANDEEP MOUDGIL)
JUDGE

21.01.2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No