



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

CRM-M-3545-2025

DATE OF DECISION: 22.01.2025

MEHTAB SINGH PANWAR

...PETITIONER

VERSUS

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Saurabh Sheoran, Advocate
for the petitioner.

SANDEEP MOUDGIL, J1. **Relief Sought**

This petition has been filed under Section 482 B.N.S.S for grant of anticipatory bail to the petitioner in case FIR No. 371 Dated 21.11.2023 (Annexure P-1), Under Section 15(c), 18 (c), of Narcotic Drugs and Psychotropic Substances Act, 1985, in which section 29 27(a) of Narcotic Drugs and Psychotropic Substances Act, 1985 and section 201 IPC were added later on, registered at Police Station: Kaithal Sadar, District: Kaithal.

2. **Facts**

The brief facts of the present case, as narrated in the FIR is reproduced hereinbelow :-

‘To the SHO PS Sadar, Kaithal, Jai Hind, It is requested that today on 21.11.2023, I along with SI Ranjit Singh No.105/KTL, ASI Parveen Kumar No.43/KTL, HC Rajeev Kumar No.279/KTL, HC Jasmer Singh No.469/KTL and EHC Lakhwinder Singh No.420/KTL were present at



village Geong-village Kathwarh turn point Hisar to Chandigarh By- pass road, Kaithal in connection w.r.t. stop the crime on Govt. vehicle bearing No.HR-08GV-5926 driven by EHC Balinder Singh No.961/KTL, a special informer came on motorcycle from Titram side and gave me secret information that Palvinder Singh alias Goldi S/o Shamsher Singh R/o village Mandwal, who is a truck driver, and is doing the business of selling the intoxicant substance i.e. poppy husk and opium in his truck, who has made drug addict the young boys of nearby areas, due to which, the young boys are committing theft and other crimes for fulfillment of their lust for drugs. The above mentioned Palvinder Singh alias Goldi is about to come from Narwana side in his container bearing No.RJ-14GN-3419 having poppy husk and opium from some outside place for selling the same in village Mandwal and nearby areas, if a Naka be laid down at this place and the suspected vehicles be checked, the above mentioned Palvinder Singh alias Goldi can be apprehended along with poppy husk and opium. As the information has been given by a believable person, a notice u/s 42 of NDPS Act was prepared at 2:15 a.m. and the same is sent to you the S.H.O. P.S. Sadar, Kaithal through EHC Balinder Singh No.961/KTL. The secret informer went from the spot, after giving the information. Thereafter, I disclosed w.r.t. the secret.information to the other police officials and prepared a raiding party and started baricating at turn point of village Geong-Kathwarh on Hisar- Chandigarh By-pass road, Kaithal and I sent S.I. Ranjit Singh to call Karamvir Singh, Sarpanch of village Geong at the spot. After checking 4-5 trucks, who were coming from Titram side, as per the secret information, at about 2:45 a.m., we saw one container coming towards us from Narwana side, to whom I along with other police officials while barigating. signaled him with the light of torch to stop the



vehicle, the driver of the vehicle stopped all of a sudden and alighted from the vehicle and tried to ran away, I along with other police officials apprehended him and on asking, he told his name as Palvinder Singh alias Goldi S/o Shamsheer Singh R/o village Mandwal, P.S. Rajound, District Kaithal. On checking the vehicle is found to be bearing No.RJ-14GN-3419, make Ashoka Lyland as per the secret information. Then I told Palvinder Singh alias Goldi that I have suspicion that you are having some intoxicant substance i.e. poppy husk and opium with you and in your vehicle and you have a legal right to get conduct the search of yourself and your vehicle from any Magistrate or gazetted officer. I prepared notice u/s 50 of NDPS Act separately, upon which, suspected Palvinder Singh alias Goldi and witnesses signed on the same. After thinking for some time, he expressed his consent to get conducted the search of himself and his vehicle from some Magistrate. I prepared consent memo u/s 50 of NDPS Act, upon which Palvinder Singh alias Goldi and witnesses had signed. On 3.19 a.m., I called from my mobile No.70155-45006 to Sh.Ashish Kumar, Naib Tehsildar, Kaithal on his mobile No.7988917708 and after explaining the facts, requested him to come on the spot. At about 3.25 a.m., EHC Balinder Singh came back at the spot, after giving the notice u/s 42 of NDPS Act to SHO, P.S. Sadar, Kaithal. At about 3.35 a.m., Sh.Ashish Kumar, Naib Tehsildar, Kaithal came at the spot in his private vehicle bearing No.HR-08GV-2222, while driving the same on his own. During this, A.S.I. Ranjeet Singh came back and told that Sarpanch Karamvir Singh S/o Balwan r/o village Geong has not met at his house as he has gone out of station due to some personal work. Sh.Ashish Kumar, Naib Tehsildar, Kaithal enquired from the suspected Palvinder Singh alias Goldi and witnesses along with me. As per the directions of Sh.Ashish Kumar,



*Naib Tehsildar, Kaithal, I got conducted my search from ASI Parveen Kumar and no suspected thing was recovered from me apart from the mandatory items. I prepared my personal search memo, upon which, the witnesses had appended their signatures. Sh.Ashish Kumar, Naib Tehsildar, Kaithal attested the memo and make 'SEEN' the notice u / s * 50 of NDPS Act. In the meantime, Satish S/o Phool Chand R/o Geong, driver of Pick-up came from village Geong side and Birbal S/O Ram Niwas along with Sahil S / o Birbal r/o village Dhons came on motorcycle bearing No.HR-09B1-1602 from village Dhons side, to whom I disclosed the facts and asked them to become the witnesses, but they told their genuine difficulties and went away from the spot. Then as per the directions of Sh.Ashish Kumar, Naib Tehsildar, Kaithal, during the search of truck container bearing No.RJ-14GN- 3419, Lyland, red colour, used by above mentioned Palvinder Singh alias Goldi, I opened four bulb type bolts on the roof in the cabin and I found a black coloured substance in a black coloured polythene bag and on checking, I found the opium i.e. intoxicant substance restricted by the Government. On weighing with the electronic weighing machine, the same is found 500 grams along with the polythene bag. I put the same in a plastic box and prepared a parcel of opium and served the same with my seal PK/2 and prepared sample seal separately as 'PK/1'. After use, I handed over my seal to HC Rajeev Kumar. Thereafter, driver Palvinder took out his driving licence from dashboard of the truck, which is in the name of Palvinder and the same is issued by RTA, Kaithal, valid upto 14.07.2029, photocopy of RC No.RJ-14GN-3419, truck make Ashoka Lyland, upon which, the chassis No.MBIASEHD6MADL6189 and engine No.MHPJ110497 has been written. This RC is in the name of above mentioned Palvinder Singh and the same has been issued*



by RC DTO, Jagatpura authority and registration date is 10.11.2021. Form 47, Form RS 5.16, 3 pages of above mentioned vehicle, fitness certificate 1 page, copy of insurance by United India 3 pages, paper of billity Le. Globe Eco Logistic Pvt. Ltd., State Maharashtra, GST No.27AAACG3938JIZG bearing No. 167316, dated 17.11.2023, upon which it has been written (From Rajasthan to Chandigarh, Consigner, Name MSK Flex India Pvt. Ltd., FI9TP 2427 MJDC, Ranjangaon, vill. Koregaon The Shirur Pune, MH, consignee name M /s Delta Enterprises, Plot No.72, Makhan Majra, Chandigarh, packages 243 Micro Cellular, 15 rubber etc, upon which, the vehicle No.RJ-14GN-3419, invoice No.232401881, dated 17.11.2023 and Mob. No.98150-91513, 97802-48378 etc has been written two pages and 14 pages of taxes invoice K Flex, 1 page of e-Way bill. The number of above mentioned vehicle is mentioned on some of the documents. Thereafter, I checked body of the truck with the help of other police officials and found packing of cardboard and packing of plastic polythene as per the billity foam, rubber etc. On the packing of cardboard, K Flex EC has been written. We also found black coloured heavy bags with the packing of foam and on checking, after opening the same, I found Doda Post in 24 bags and poppy husk in 34 bags. On weighing with the electronic weighing machine, every bag was found 20-20 kg. out of above mentioned 24 bags of Doda Post and therefore, total 480 Kg of Doda post was recovered. Then, on weighing with the electronic weighing machine, every bag was found 30-30 kg, out of above mentioned 34 bags of Poppy husk and therefore, total 1020 Kg of poppy husk was recovered. Then we marked A1 to A24 the plastic bags of Doda Post and B1 to B34 to bags of the poppy husk. Then I prepared parcels of bags of Doda Post and Poppy husk recovered from the possession of above mentioned



Palvinder Singh alias Goldi and served with my seal prime PK/(2') after taking the same from HC Rajeev Kumar and prepared sample seal separately of all the parcels and then served every sample seal with my seal? K / (1) After use, I handed over the seal to HC Rajeev Kumar. Thereafter, Sh. Ashish Kumar, Naib Tehsildar, Kaithal served with his seal prime SS / 1 / (1') on one parcel of opium, 24 parcels of Doda Post, 34 parcels of poppy husk and sample seal of opium, Doda Post and 59 sample seal of poppy husk. After use, Sh.Ashish Kumar, Naib Tehsildar, Kaithal has kept his seal with him and he attested all the parcels and sample seals. Thereafter, parcel of opium, Doda Post, Chura Post, sample seals and above mentioned truck alongwith 24 pages as evidence were taken into police custody through recovery memo. I prepared recovery memo. The accused and witnesses signed on the same and Sh.Ashish Kumar, Naib Tehsildar, Kaithal attested the same. After giving me proper directions, Sh.Ashish Kumar, Naib Tehsildar, Kaithal went away from the spot at 8:15 a.m. in his vehicle. As accused Palvinder Singh alias Goldi has committed offences u /s 18(C) of NDPS Act by keeping intoxicant substance of 500 grams of opium and u /s 15(C) of NDPS Act by keeping intoxicant substance of 480 kg of Doda Post and 1020 KG poppy husk, total 1500 kg (15 quintals), therefore, a ruqa is written and sent to the police station sadar, Kaithal through EHC Balinder Singh No.961/KTL. After registration of a case, number of the same may kindly be informed to me. Special reports may kindly be sent to the higher police officials through proper channel. Another investigation officer may kindly be sent at the spot for further investigation. I along with other police officials and accused Palvinder Singh alias Goldi along with case property is present at the spot. Sd/- ASI



Pardeep Kumar, No.56/KTL, Special Detective Unit, Kaithal, dated 21.11.2023.'

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 Manish, who has also been nominated on the basis of disclosure statement suffered by the main accused Palvinder Singh @ Goldi, 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, while in custody, which has no evidentiary value.

Notice of motion.

On behalf of respondent-State

At the asking of Court, Mr. Chetan Sharma, DAG, Haryana appearing on advance notice, accepts notice on behalf of respondent-State. He has vehemently opposed the prayer made in the present petition stating that a significant quantity of contraband i.e 500 grams of opium, 480 kilograms of Doda Post, and 1020 kilograms of poppy husk, which is a commercial in nature, was recovered from the conscious possession of the primary accused, Palvinder Singh. It is further stated that a portion of the narcotics was intended for distribution to the petitioner. Additionally, the petitioner, along with co-accused Manish, Jawan Singh @ Jony, and the main accused Palvinder



Singh, were found to have been in communication with each other via WhatsApp, suggesting the petitioner's direct involvement in the commission of the offense. Consequently, custodial interrogation of the petitioner is deemed necessary to investigate the source of the contraband and the roles of the other co-accused individuals.

Heard learned counsel for the respective parties.

4. **Analysis & Conclusion**

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, which was registered based on a secret information indicating that Palvinder Singh @ Goldi, a truck driver, was involved in the illegal trade of intoxicating substances. Consequently, a checkpoint was established, and Palvinder Singh @ Goldi was apprehended along with his truck, bearing registration number RJ-14GN-3419, from which a large quantity of contraband was recovered from his conscious possession. Following his disclosure statement, one Manish was arrested on 14.12.2023.



During further investigation, Manish provided a statement naming the present petitioner as being involved. It was also revealed that Palvinder Singh, Manish, and Jawan Singh @ Jony had been in contact with each other through WhatsApp, indicating the petitioner's direct involvement in the commission of the offense.

Based on the aforementioned facts, the court can reasonably conclude that the petitioner is involved in a criminal conspiracy aimed at facilitating the commission of an offense. Upon perusal of FIR, it is clear that the petitioner, along with other co-accused, is engaged in the illegal drug trade, contributing to the addiction of young boys. As a result, these young individuals are resorting to theft and other criminal activities to satisfy their drug cravings. This highlights the state government's failure to address the growing drug problem, which is particularly alarming in Punjab. The widespread drug abuse is severely undermining the future of the country, as it is gradually eroding the youth population, much like a termite.

In light of these concerns, the court, as the guardian of its citizens, deems it essential to take decisive action against such offenders, especially when the lives and futures of the nation's youth are at stake. The drug epidemic must be tackled with the utmost seriousness. The illegal activities carried out by the individuals involved must be met with resolute measures. The intent of the legislature and the integrity of the rule of law must be preserved at all costs, and cannot be allowed to be undermined, irrespective of the quantity of drugs 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

22.01.2025
sham

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