

2025:PHHC:017858



103 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5248-2025
DECIDED ON: 04.02.2025

MAHABIR SINGH @ MAHAVIR SINGH @ SAGAR

...PETITIONER

VERSUS

STATE OF PUNJAB

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Fateh Singh Bhullar, Advocate and
Mr. D.S. Bhullar, Advocate
for the petitioner.

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.40 dated 22.04.2024, under Section 21 and 23 of Narcotic Drugs and Psychotropic Substance Act,1985 (Section 29 of NDPS Act and Section 11-A of Aircraft Act added later on) registered at Police Station Khilchian, Amritsar Rural.

2. FACTS

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

“First Information Contents: S.H.O P.S. khilchian, Jai Hind, today, I ASI along with ASI Satpal Singh 689, head constable Rashpal Singh 687, Sepoy Jarmandeep Singh 1768, Sepoy Jagjit Singh 1802 on private vehicle along with laptop printer

and other accessories were present at Ada fattuwal in search of bad elements when a secret informer provided information that Daler Singh @ dalera son of Baldev Singh, Mahavir Singh @ sagar son of Balwinder Singh e Bindu Bose resident of Village, Rajoke P.S. khalra district tarn taran are doing work of supplying heroine and arms at village Burj rajatal and in other cities and villages. Today, both of them are present at Ada thothian and are waiting for someone. If raid is conducted now, then both can be arrested at this spot. Information is correct. As per the information offence under section 21, 23/61/85 of NDPS act and 25-54-59 of arms act is made out. Ruga is being written and is being sent to the police station by hands of debuted officer sepoy Jarmandeep Singh 1768 for registration of FIR. After registration of FIR, number, be intimated, special reports be prepared for Laka magistrate and senior officials. Control Room be informed via wireless. I ASI along with other police officials leave for Ada. Thothian. Today at Ada fattuwal at 6:20 PM SD/- Sarwan Singh ASI P.S. khilchian dated 22- 4-24.”

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 Daler Singh @ Dalera, who stated that he along-with Mahavir Singh @ Sagar received consignment of Heroin and weapons from Pakistan through Drone. 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 of NDPS Act, as all of them were the conspirators and were transporting the narcotics from Pakistan via drone and 80 gram of heroin has been recovered from the co-accused of the petitioner on whose disclosure, he has been nominated as an accused, therefore, false implication of the petitioner cannot be ruled out.

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 has been indulged in business of smuggling of heroin and arms and it was the petitioner who received the consignment along-with his co-accused namely Daler Singh @ Delera. 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

04.02.2025
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Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*