



221 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-6224-2025
DATE OF DECISION: 13.02.2025

MAIJA KARAD ...PETITIONER

Versus

STATE OF HARYANA ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ajay, Advocate with
Mr. D.S Adlakha, Advocate for the petitioner(s).
Mr. Chetan Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

This petition has been filed under Section 483 of the BNSS, 2023 seeking the concession of regular bail for the petitioner in FIR No.1668 dated 02.08.2024 under Sections 20 and 29 of The Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Kalka, District Panchkula.

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

‘Copy of the written information is as under:- To the S.H.O. Police Station, Sector-9, Ambala City. Jai Hind. Sir, today, on dated 19.09.2023, I, SI along with EASI Sahab Singh No. 166/AMB, EHC-Rajesh Kumar No. 727, ASI Suraj Bhan No. 180, Constable-Narender Kumar No.1459, Constable Amarjeet Singh NO.969, with Govt. Vehicle No. HR01GV-8901, its Driver SPO Balwan Singh NO.95 and with Laptop and Printer and investigation bag, was going in connection with patrolling and checking of crime at time about 12.15 P.M. by going from Anti Narcotic Cell, Ambala, via area of Police Station, Mahesh Nagar, Capital Chowk, Ambala Cantt, area of police station, Baldev Nagar, area of Police Station, Ambala City, area of Police Station, Sector-09, Ambala and at time about 7.15 P.M., I was present near Police D.A.V. School, Ambala City. Then the special informer met me and gave information to myself SI that Gurpreet Alias Golu son of Sh. Darshan, resident of Village Ghel, Police Station Sadar, Ambala, District Ambala, who is wearing Kurta-Pajama (trouser) of white colour and he has a Pithu Bag (Backpack Bag) of black colour and having strips of white colour on it, in which, intoxicated capsules of blue colour



are available in heavy quantity and he is in opportunity to sell the same. After sometime, he will come on foot from the side of Galaxy Mall, Sector-7, Ambala City towards Community Centre, Sector-7, Ambala City. If barricades are deployed near Community Centre, Sector-7, Ambala City, then the above said Gurpreet can be overpowered along with bag filled with intoxicated capsules. The information is solid and reliable. Upon this, for informing about this information, one information letter was sent to you by hand through C-Narender Kumar No. 1459, at Police Station Sector 9 Ambala and after preparing notice u/s 42 of NDPS Act the same was sent by myself SI by hand through ASI Suraj Bhan No. 180 to Sh. Ramesh Kumar, HPS/ DSP HQ Ambala at his residence at Police Line Chowk Ambala City for information. Thereafter, I, SI said to the passengers coming and going from there to join in the raiding party after telling them about facts of the information. But, all the persons were gone from the spot after telling their justified helplessness. Upon this, I, SI with the help of co-officials and along with the special informer, reached near Community Centre, Sector-7, Ambala City and set up barricades here and there, I also told the circumstances to the passengers coming and going from there and requested them to join in the raiding party. Upon this, all the persons were gone away from the spot by telling their justified helplessness. After sometime, one young boy, wearing kurta-pajama(trousers) of white colour was seen coming on foot having a pithu back on his back from the side of Galaxy Mall, Sector-7, Ambala City. On giving hint by the special informer I, SI, overpowered him with the help of co-officials and asked his name and address and upon inquiry, he told his name as Gurpreet Alias Golu Son of Sh. Darshan, resident of Village Bari Ghel, Police Station Sadar, Ambala District Ambala. Thereafter, I, SI, said to the above said Gurpreet that I have information of having intoxicated capsules in the backpack bag on your back of grey and black colour and you have legal right that you can get the search of your bag from any Magistrate or any Gazetted officer. Upon this, Notice U/s 50 of NDPS was prepared separately. After reading the notice, the accused put his signatures and witness put signatures. In the reply to the Notice U/s 50 of NDPS Act, the above said Gurpreet gave his written consent for getting the search conducted in the presence of any Gazetted Officer and on the memo of presence consent prepared by myself SI, the above said Gurpreet and witness put their respective signatures. Thereafter, I, SI, from my Mobile Phone Number 9416175024, informed about the circumstances to Sh. Ramesh Kumar HPS/DSP HQ Ambala on his Mobile Phone Number 9729990102 at time 07.50 P.M. and requested him to reach at the spot. Sh. Ramesh Kumar HPS/DSP came at the spot after sometime along with his Govt. Vehicle and staff. I, SI, told him about



the circumstances till now and presented Notice U/s 50 NDPS Act, Memo of Consent and the above said accused Gurpreet before him. Sh. Ramesh Kumar HPS/DSP saw the above said Notice U/s 50 of NDPS Act and Memo of consent and Sh. Ramesh Kumar HPS/DSP conducted my personal search as per the procedure regarding the above said information and on the instructions of Sh. Ramesh Kumar HPS/DSP, personal search of co-officials EASI Sahab Singh No. 166/AMB, EHC Rajesh Kumar No.727, C-Amarjeet Singh No. 969 and Driver SP Balwan Singh No. 95, were conducted by myself SI. No objectionable maternal was found from all the above said co-officials except the daily use items. Upon this, Memo of Personal Search was prepared separately by Sh. Ramesh Kumar HPS/DSP, on which, witnesses put their respective signatures. At this time, ASI Suraj Bhan NO.180, after giving notice u/s 42 of NDPS Act, was come back and he entrusted me the Notice U/s 42 of NDPS Act, duly seen by Sh. Ramesh Kumar, HPS/DSP. Thereafter, Sh. Ramesh Kumar HPS/DSP said to the above said accused Gurpreet that I, Sh. Ramesh Kumar HPS/DSP HQ Ambala and I am a Gazetted Officer and Sh. Ramesh Kumar HPS/DSP gave instructions to me to conduct the search of the backpack bag hanging on the back of the above said Gurpreet, in his presence. Upon this, I, SI, conducted search of the backpack bag hanging on the back of the above said Gurpreet as per the procedure. Upon conducting the search and on checking the backpack bag of the above said accused Gurpreet, 339 strips, in which, each strip was containing 8 Capsules and in total 2712 intoxicated capsules of NRx Dicyclomine Hydrochloride Tramadol Hydrochloride Acetaminophen Capsules Spasmaxx B. No. VLAC23 Mfg. Date 02/2023, Expiry Date 01/2025, have been recovered and on weighing the same with the weighing machine, the weight of one strip, containing 8 Capsules, was found as 6.04 Grams along with the weight of the strip and it was found as 4.41 Grams of 8 Capsules of Spasmaxx without strip and the weight of the vacant strip was found as 1.65 Grams and the weight of one capsule of Spasmaxx was found as 0.54 Grams. In this way, the weight of total 2712 capsules without strip was found as 1464.48 Grams. Opinion has to be taken from Sh. Hemant Grover, Drugs Controller Officer, Ambala regarding the recovered capsules. I, SI, from my mobile No: 9416175024, contacted Sh. Hemant Grover, Drugs Controller Officer, Ambala on his Mobile No: 9416404475. Sh. Hemant Grover, Drugs Controller Officer, Ambala said to me to send photograph of the recovered capsules alongwith Make printed on the these on his Whatsapp along with written application for opinion. I, SI, sent photographs along with Manufacture details printed on the strip of recovered intoxicated capsules and written application on his whatsapp number. After sometime, Sh. Hemant Grover, Drugs



Controller Officer, Ambala sent his report regarding the recovered intoxicated capsules on my Whatsapp Number, which is as under: "Opinion:- The above mentioned drug contains "Tramadol which falls under NDPS category at Sr. No.238-ZH of NDPS Act". At this time, Constable Narinder Kumar No. 1459, after giving information to the police station, Sector-09, Ambala, was come back and he entrusted Rapat No. 35 Dated 1909.2023, Police Station, Sector-9 Ambala City to me. Thereafter, the above said recovered intoxicated, in total 2712 capsules, were put in the same Pithu (Backpack bag) and by putting the same in a bundle of cloth, separate bundle has been prepared and I sealed the said bundle with my seal NK/3 and after preparing the sample seal separately, the same was also sealed with my seal NK/1 and the above said Sh. Ramesh Kumar HPS/DSP sealed the bundle of intoxicated capsules with his seal RK/1 and also put his seal of RK/1 on the sample seal and the above said Sh. Ramesh Kumar, HPS/DSP attested the bundle of intoxicated capsules and the sample seal and after use, the above said Sh. Ramesh Kumar, HPS/DSP kept his seal with him. I, SI, after using the seal, entrusted the seal and the sample seal to the witness EASI Sahab Singh No. 166/AMB. The recovered material of the bundle of intoxicated capsules and sample were taken in police possession as proof through memo. The accused Gurpreet and witnesses put their respective signatures on the memo of recovery of the case property and the above said Sh. Ramesh Kumar, HPS/DSP attested the memo of recovery of the case property of intoxicated capsules. The above said accused Gurpreet, by keeping the above said 2712 intoxicated capsules in his possession without any license or permit, has committed offence U/s 22-61-85 of NDPS Act. Upon this, after writing the information by myself SI, the same is being sent to the police station by hand through Constable Amarjeet Singh No. 969 for registering the case. After registering the case, FIR Number may be informed at the spot and special report of this case may be sent to the higher officers. Senior officers may be informed about the circumstances and as per the orders of the Hon'ble Supreme Court, Incharge Anti Narcotic Cell, Ambala was informed to send other I.O. may be sent at the spot. I, SI, become busy in investigation. Today:- Near Community Centre, Sector-7, Ambala City. Sd/- SI Naushad Khan No: 105/AMB, Anti Narcotic Cell, Ambala.'

3. Submissions

On behalf of the petitioner

Counsel for the petitioner contends that the petitioner has nothing to do with the alleged offence wherein the instant FIR was



initially registered under section 20 of the NDPS Act but subsequently, section 29 of the NDPS Act has been added only in order to harass the petitioner. He further contends that the petitioner has been roped in the instant FIR only on the basis of disclosure statement of co-accused namely Krishan and the petitioner was rather was not present at the spot and nothing is to be effected from the petitioner as it was the co-accused who was apprehended from the spot and was found in possession of Ganja weighing 20Kg 460 Gm.

On behalf of State

Learned counsel for the state has produced custody certificate which is taken on record. While opposing the prayer for grant of anticipatory bail, he submits that it is on the basis of disclosure statement of co-accused that section 29 of NDPS Act was added and the petitioner was named in the instant FIR. He further submits that it has been clearly stated by the co-accused that the recovered contraband was purchased from the petitioner and on this basis he prays for dismissal of the instant petition.

Heard learned counsel for the respective parties at length and gone through the record in hand.

4. Analysis.

Before delving into the merits of the case, it is apposite to discuss section 29 of the NDPS Act which is reproduced herein below:-

29. Punishment for abetment and criminal conspiracy- (1) Whoever abets, or is a party to a criminal conspiracy to commit an offence punishable under this Chapter, shall, whether such offence be or be not committed in consequence of such abetment or in pursuance of such criminal conspiracy, and notwithstanding anything contained in [section 116](#) of the Indian



Penal Code (45 of 1860), be punishable with the punishment provided for the offence.

(2) A person abets, or is a party to a criminal conspiracy to commit, an offence, within the meaning of this section, who, in India abets or is a party to the criminal conspiracy to the commission of any act in a place without and beyond India which-

(a) would constitute an offence if committed within India;

or

(b) under the laws of such place, is an offence relating to narcotic drugs or psychotropic substances having all the legal conditions required to constitute it such an offence the same as or analogous to the legal conditions required to constitute it an offence punishable under this Chapter, if committed within India."

Section 29 of the NDPS Act, thus addresses the issues of abetment and criminal conspiracy in relation to narcotic offenses. This section is significant because it extends liability not only to those who directly engage in drug-related activities but also to those who assist or conspire in such activities.

An additional aspect that must be considered by this court is the frequent practice where individuals 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.

There has been an alarming increase in drug abuse among the youth in India, particularly with substances like heroin, marijuana, and synthetic drugs. With increased demand comes the rise of peddling networks. Drug trafficking in India is often linked to organized crime syndicates where these syndicates operate with great sophistication, playing backstage role in spreading the drug menace while involving a large network of criminals. The scale of these operations makes it difficult for law enforcement agencies to combat effectively.

Coming to the instant case, a perusal of the record in hand makes it crystal clear that the petitioner was having constant conversations with the co-accused with regard to the sale and purchase of Ganja added with the fact that another FIR NO. 344 dated 01.08.2024 stands registered against the petitioner under section 20 of the NDPS Act at Police Station Pinjore, Panchkula, meaning thereby, he is an habitual offender involved in offences of similar nature and there are high chances that the petitioner might repeat a pattern of behaviour suggesting potential recidivism.

5. Relief

In the light of above stated facts and the law discussed along with the prevailing conditions, the court is of the considered view that the petitioner does not deserve the concession of the regular

bail. Hence, the instant petition stands dismissed being devoid of merits.

However, it is made clear that the observations made herein above shall have no bearing in the mind of the trial court while adjudicating the matter in accordance with law.

Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

13.02.2025
anuradha

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>