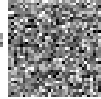


2025.PHHG:020328



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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-7999-2025
DECIDED ON: 13.02.2025**

LAKHBIR SINGH @ LAKHA**.....PETITIONER****VERSUS****STATE OF PUNJAB****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. B.S. Bhalla , Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG Punjab

SANDEEP MOUDGIL, J (ORAL)**1. Relief sought**

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in Section 27-A of the NDPS Act in FIR No.143, dated 10.12.2024, registered under Sections 21, 29 of NDPS Act (Section 27-A of NDPS Act added later on), at Police Station Bhindi Saidan, District Amritsar.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

"Station House officer, Bhindi Saidan Police Station, "Jai Hind". Today, I, ASI along with ASI Gurjeet Singh, number 1878, PHG Ajit Kumar, number 3429, were traveling in a government vehicle numbered PB-65-BH-0756, driven by CT Jaskaran Singh, number 1958, along with a laptop kit along with BSF personnel, ASI Sham Singh, number 90254368/BSF 183 BN, HC Rambir Singh, number 957225776/BSF SHQ Khasa, and CT Ravinder

Singh, number 12453344/BSF SHQ Khasa, for searching suspicious individuals. We were moving on the link road between village Jasraur and village Panju Kalal. Near Dana Mandi, Jasraur, we were present for checkpoint duty. During the checkpoint duty, a young man appeared walking on foot from the direction of village Panju Kalal. Upon seeing the police party, he attempted to take out a weighty item from the right pocket of his jacket and throw it away. ASI Gurjeet Singh, who was part of the police party, caught him by his right knee and took him into custody. When I, ASI, asked for his name and details, he identified himself as Gurdev Singh, son of Mukhtar Singh, resident of Tanana, Police Station Bhindi Saidan. Before checking the Polythene-coated envelope that the detained individual was holding in his right hand, I made every possible effort to include public witnesses from the surrounding area. However, every individual cited personal reasons and refused to become a part of the police proceedings. Thus, in the presence of my fellow officers, I opened the Polythene-coated envelope held by Gurdev Singh's right hand and checked its contents. Inside, heroin was recovered. Upon strict questioning regarding the recovered heroin, Gurdev Singh revealed that he had purchased this heroin from Lakhbir Singh alias Lakha, son of Mehal Singh, resident of Bhindi Saidan. When weighed on an electronic scale, the recovered heroin amounted to 45 grams. The seized heroin was packed separately in a plastic box and sealed with a cloth parcel, and I, ASI, sealed it with my GS stamp. A separate sample seal was prepared, and Form No. 04 was completed. After sealing, the items were handed over to ASI Gurjeet Singh, number 1878, for further action. During the body search of the accused Gurdev Singh, one mobile phone OPPO A-5S, containing SIM number 9914576184, was recovered from the left pocket of his jacket. The recovered mobile phone was separately listed and taken into police possession as evidence. Since the recovery of 45 grams of heroin was accidental (by chance), there was no opportunity to call the local magistrate or a gazetted officer to the scene. A report under Section 57 of the NDPS Act is being sent to the concerned GO. As a result, accused Gurdev Singh, son of Mukhtar Singh, resident of Tanana, has been found in possession of 45 grams of heroin, committing an offence under Sections 21, 61, and 85 of the NDPS Act. Furthermore, Lakhbir Singh alias Lakha, son of Mehal Singh, resident of Bhindi Saidan, committed an offence under Sections 29, 61, and 85 of the NDPS Act by supplying this heroin to Gurdev Singh. A case is being registered, and a formal request is being written and handed over to PG Ajit Kumar, number 3429, to be sent to the police station for the registration of the case. Once the case is registered, details of the case number should be communicated. Special reports should be prepared

and sent to the local magistrate and senior officers, and the control room should be informed via wireless communication. I, ASI, along with my fellow officers and BSF personnel, am currently engaged in further investigation at the scene. Location: Near Dana Mandi, Jasraur Time: 06:20 PM, Sd/ Gurdev Singh, ASI, Bhindi Saidan Police Station Date: 10-12-2024"

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner has asserted that though the petitioner was granted regular bail vide order dated 10.01.2025 (Annexure P-1) passed by Judge (Special Court) Amritsar. Subsequently Section 27-A of NDPS Act was added and thereafter the petitioner had filed an application seeking anticipatory bail in the newly added Section, which was dismissed vide order dated 06.02.2025 (Annexure P-2) passed by Judge (Special Court) Amritsar. Hence, the present petition.

Notice of motion.

On behalf of the State/complainant

On the asking of Court, Mr. Jaspal Singh Guru, AAG Punjab, accepts notice on behalf of respondent/State. He does not controvert the submissions made by learned counsel for the petitioner. Additionally he submits that an application for the cancellation of bail granted to the petitioner and co-accused Amba Singh has been filed, which is pending adjudication.

4. **Analysis**

As per the case of the prosecution, the contraband recovered from the co-accused is 45 grams of heroin, which though non-commercial in nature is alleged to have been procured from the petitioner by the co-accused and an amount of Rs.37,000/- stands recovered from the house of the petitioner which has been termed to be drug money, but there is no corroborating material put

forth by the State at the time of hearing of the instant petition to connect the

money with the drug trafficking and as such it would be unjust and unfair to deny the concession of anticipatory bail whereas the petitioner has been granted bail for all other offences in the instant FIR vide order dated 10.01.2025 (Annexure P-1). It is also on record that after addition of Section 27-A of NDPS the petitioner demonstrated *bona fide* intent by promptly filing an application for bail under Section 27-A on 04.02.2025, which was dismissed vide order dated 06.02.2025, without any substantial reasoning, except on formal grounds, by the learned Judge of the Special Court, Amritsar.

In the light of above, this Court does not find any reason 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 within the stipulated time period.

5. **Decision**

Hence, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, 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 a period of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

13.02.2025

Meenu

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