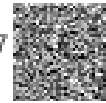


2025:PHHC:022387



107

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9137-2025
DECIDED ON: 17.02.2025

SIKANDER SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vishal Sharda, Advocate
for the petitioner.

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 FIR No.31, dated 03.02.2025, under Sections 21(b) of NDPS Act, 1985 registered at Police Station City Mandi Dabwali, District Dabwali (Annexure P-1).

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

“To The Station House Officer, Police Station City Dabwali, Jai Hind. Today 1, ASI along with EASI Jaspal Singh no.461/DWL in Government vehicle No.HR24GV-1120 with its driver Constable Anoop Singh no.505/DWL along with personal laptop-printer was going from Sirsa road towards Dabwali city Gol Chowk for patrolling and investigation for prevention of crime and drugs, when he reached near water works on Dabwali road, he saw a young boy standing there wearing white kurta-pyjama and blue jacket, who on seeing the vehicle of the police party coming, immediately tried to run away. Then I, ASI stopped the government vehicle, got down and after few steps

overpowered the young man, and asked his name and address, he told his name as Gurman Singh son of Iqbal Singh, resident of Street No.2, Jawahar Nagar Mandi Dabwali. When the ASI asked him the reason for running away, he could not give any satisfactory answer, due to which I, ASI suspected that the said person Gurman Singh was carrying some narcotic substance and issued a notice under section 50 NDPS to him to the effect that "I, ASI Pritam Singh No. 139/FTB, CIA Dabwali inform you Gurman Singh son of Iqbal Singh son of Hakam Singh, resident of Gali No.2, Jawahar Nagar Mandi Dabwali that I suspect you to have some narcotic substance, therefore you have to be searched. You have full legal right to call any Gazetted Officer or any nearby Magistrate for your search or you can be presented before them for search. Explain the situation about your search in writing". The above mentioned Gurman Singh, after reading, hearing and understanding the above mentioned notice given by me, considered it to be correct and wrote in his reply to notice that "I Gurman Singh son of Iqbal Singh son of Hakam Singh, resident of Gali No.2, Jawahar Nagar Mandi Dabwali have read, heard and understood the notice given by you, ASI Pritam Singh No. 139/FTB CIA Dabwali. I want to be searched at the spot in front of a gazetted officer. For my search a gazetted officer may be called at the spot". After reading, hearing and understanding the notice and reply to notice and considering them to be correct, accused Gurman Singh and the witnesses signed the notice and reply to notice. Then I, ASI contacted the gazetted officer appointed by the Deputy Commissioner Sirsa, Shri Surendra Godara E.T.O office of D.E.T.C Sales Tax Sirsa on his mobile No. 70150-68029 from his personal mobile number 94161-91312 and informed him about the situation and requested him to reach the spot, who told that I have gone to Hisar for a meeting and after finishing the meeting I will come to Sirsa. You come to Sirsa with the captured accused, during this time 6/8 passersby coming and going from the spot were asked to join the raiding party, all of whom left the spot expressing their legitimate compulsions, then I, ASI alongwith accompanying officials in Government vehicle after taking the captured accused Gurman Singh proceed to Sirsa. At present, I, ASI alongwith my companions in the government vehicle along with the captured accused Gurman Singh, have reached Vanijya Bhawan, Sirsa at around 9.10 PM, where Gazetted Officer Shri Surendra Godara, E.T.O office of D.E.T.C Sales Tax Sirsa is found present. I fully informed the gazetted officer about the situation and presented the notice and reply to notice before the gazetted officer. The gazetted officer signed the notice and reply to notice. Then the gazetted officer introduced himself to accused Gurman Singh and then the gazetted officer searched me and without leaving any clue, instructed me to

search accused Gurman Singh as per rules. Then the ASI carried out the search of accused Gurman Singh as per rules and from the right side dub of white coloured shirt worn by accused Gurman, a white transparent waxy foil was found. When I, ASI opened it and checked it by smelling it, Heroin (Chitta) was found in the foil and when the recovered Heroin was weighed along with the transparent foil on a computerized weighing scale, the total weight was 5.65 grams including the transparent waxy foil. Then I, ASI prepared the cloth parcel by putting the Heroin (Chitta) in a white cloth along with transparent foil and sample seal was prepared separately, I sealed the parcel of white coloured cloth of heroin (Chitta) with my seal PS/3 and the Gazetted Officer sealed the parcel of heroin (Chitta) with his seal GO/1 and on the sample seal I put my seal PS/1 and the Gazetted Officer put his seal GO/1. Then I, ASI took the parcel of cloth of heroin (Chitta) alongwith sample seal into police possession vide property seizure memo. The accused Gurman Singh aforesaid as well as witnesses put their respective signatures on the property seizure memo and the Gazetted Officer attested the property seizure memo as well as parcel of heroin (Chitta) and sample seal. The Gazetted Officer kept the seal after use with him and I handed over the seal after use to EASI Jaspal Singh No.461/DWL. The videography while conducting search and preparing cloth parcel of the recovered heroin (Chitta) and recovered heroin Chitta and taking the same into police possession was prepared on the instructions of me, ASI from my, ASI, personal mobile, by Constable Anup Singh No.505/DWL on E-evidence App. Then, on interrogation by me, ASI, accused Gurman Singh told about the recovered Heroin (Chitta) that I have bought this recovered Heroin from Sikander Singh son of Kartar Singh alias Tar Singh, resident of Deshujodhan, presently, Gali no.2, Jawahar Nagar, Mandi Dabwali and accused Gurman Singh son of Iqbal Singh son of Hakam Singh, resident of Gali no.2, Jawahar Nagar, Mandi Dabwali has kept in his possession a total of 5.65 grams of Heroin (Chitta) and accused Sikander Singh son of Kartar Singh alias Tar Singh, resident of Deshujodhan, presently, Gali no.2, Jawahar Nagar, Mandi Dabwali have committed the offence under section 21b/61/85 of NDPS Act by selling recovered Heroin (Chitta), hence, the present writing is sent to the police station through C. Anup Singh No.505/DWL for getting a case registered. After registering the case, FIR number be intimated and for further investigation, second Investigating Officer may be sent at the spot. I, ASI alongwith accompanying officials in Government vehicle with accused Gurman Singh aforesaid with case property proceed to the place of occurrence at Mandi Dabwali. At: - Vanijya Bhawan, Sirsa. ASI Pritam Singh No. 139/FTB CIA Dabwali, Dated

03.02.25, Time 09.50 PM, Mob. No. 94161-91312. At Police Station - On the basis of writing received, after registering the aforesaid case in Police Station City Dabwali, copy of police file alongwith original writing are being sent through the coming official to the Investigating Officer at the spot and for further investigation of the present case, ASI Ashok Kumar 1409 has been telephonically intimated to reach at the spot and computerized copies of the FIR will be sent by post to the Illaqa Magistrate Sahab as well as higher officers and facts of the case have been telephonically intimated to the Station House Officer.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the basis of disclosure statement of co-accused Gurnam Singh from whom the alleged contraband i.e., of 5.65 grams of heroin was effected. He undertakes before this Court that the petitioner is ready and willing to join the investigation.

Notice of motion.

On behalf of the State/complainant

On the asking of Court, Mr. Baljinder Singh Virk, Sr. DAG Haryana, accepts notice on behalf of respondent/State. He prays for dismissal of the present petition on the ground that the petitioner is a habitual offender, as he is involved in other 11 cases.

4. **Analysis**

Considering the submissions made hereinabove especially to the fact that except disclosure no other incriminating material has come forth by the prosecution to connect the petitioner with the alleged contraband which is non-commercial in nature added to the fact that out of 11 other cases, the petitioner stands acquitted in 7 cases.

As far as the contention of learned State counsel with regard to the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “*Baljinder Singh alias Rock vs. State of Punjab*” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial the concession of bail.

In the light of above, this Court is of the considered view that there is no valid or cogent reason to deny the bail to the present petitioner, wherein he has *bona fide* intentions and is ready and willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

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

17.02.2025

Meenu

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