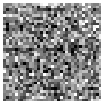


2025.PHHC-028087



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11426-2025
DECIDED ON: 01.03.2025

JAI PARKASHPETITIONER

VERSUS

STATE OF HARYANARESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Shailender Singh, Advocate and
Ms. Priya Bhati, Advocate for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 (akin to erstwhile Section 438 Cr.P.C.,) for grant of anticipatory bail to the petitioner in FIR No.140, dated 17.05.2024, under Sections 22(c) and 29 of NDPS Act, 1985 registered at Police Station Sadhaura, District Yamuna Nagar, Haryana (Annexure P-1).

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

“Sir, the copy of the complaint is as follows: To Managing Officer, Police Station Sadaura, Jai Hind. Today on 17.05.2024, SI Rajesh Kumar No. 223/A, Haryana State Narcotics Control Bureau Unit Ambala along with EASI Phool Kumar No. 1366/HSR, EHC Gurmel Singh No. 689/KKR, EHC Ashok Kumar No. 1268/AMB and Baswari vehicle government HROSGV-2751 brand ISUZU whose driver is HC Praveen Kumar No. 1591/PPT along with laptop and promoter along with investigation bag for narcotics was present near Block Education Officer's office, Kotla Road, Sadhaura, District Yamuna Nagar at about 1.50 PM, when a special informer met the SI and informed that Rajat, son of Pawan Kumar, resident of Kacha Kila Mohalla, Sadhaura, District Yamuna Nagar, deals in selling narcotic

capsules. And After some time, from village Ismailpur, he will go towards his house in Kacha Kila Mohalla on his motorcycle number HR71B-4669, brand SUPLENDER Barang Kala, carrying the narcotic capsules. If a blockade is done near the office of Block Education Officer, Kotla Road, Sadhaura, District Yamuna Nagar, then Rajat can be caught on the above mentioned motorcycle along with the narcotic capsules. On the information being confirmed and credible, the SI prepared a separate information letter and sent it to EASI Phool Kumar No. 1366/HSR of Police Station Sadhaura, District Yamuna Nagar at 02.00 PM for informing the Managing Officer, Police Station Sadaura, District Yamuna Nagar. Or a notice under section 42 NDPS Act was prepared and provided for information to you Shri Kanwaljeet Singh DSP HQ Yamuna Nagar at 02.10 PM along with EHC Ashok Kumar No. 1268/AMB was sent thereafter, the SI informed his fellow employees about the informer and started the blockade. At about 02.15 PM, as per the information given by the special informer, a person was seen coming on a motorcycle bearing number HR71B-4669, brand SUPLENDER Barang Kala. The SI arrested him with the help of his fellow employee and asked his name 1 34 and address. On being asked by the SI, he told his name as Rajat son of Pawan Kumar, resident of Kacha Kila Mohalla Sadaura, District Yamuna Nagar. The SI requested the private persons commuting on the road to join the blockade. All the persons left the spot after expressing their legitimate compulsions. Thereafter, the SI informed the above mentioned Rajat by telling his name and designation that there is information about you having narcotics with you. You have the legal right to get yourself searched by a Duty Magistrate or a Gazetted Officer. For which notice was prepared under Section 50 of the NDPS Act and Rajat above mentioned was given in a language known to him. Read and explained in Hindi. Rajat above and the witness signed the notice. Thereafter, after thinking and understanding for a while, Rajat above said that he wanted to get himself searched in front of a gazetted officer, for which a consent notice under section 50 of NDPS Act was prepared and read out to Rajat above in Hindi, a language he knew. Rajat above and the witness signed the notice. Thereafter, the SI at around 02.30 PM from his mobile phone no. 9416094967 contacted gazetted officer Shri Ashuman Thukral ETO Jagadhari (Yamunanagar) on his mobile number 9812600449 and informed him about the situation and requested him to come to the spot, whereupon at around 02.50 PM gazetted officer Shri Ashuman Thukral ETO Jagadhari (Yamunanagar) arrived in a passenger vehicle with government number HROGV-4899 along with his staff at the spot. To whom the SI explained the entire circumstances and presented both the notices under 50 NDPS Act along with the above mentioned person, Rajat, in front of ETO sahab. The ETO sahab informed Rajat about his name, designation and place of posting and questioned Rajat. Thereafter, ETO sahab read both the notices under 50 NDPS Act, signed them and carried out a personal search of the SI and his fellow employee for presence of narcotic substances. During the search, no narcotic substance of any kind was recovered from the possession of the SI or his fellow employee. The report of personal search and non-recovery of the employee was prepared separately. Which was presented at 03.10 PM to EASI Phool Kumar No. After 1366/HSR, the letter report was registered, the diary was present at the spot, who told that due to CCTNS server being down in this police station, there was delay in registering the letter report and the information along with the copy of the report was handed over to the

SI. Thereafter, as per the orders of Gazetted Officer Shri Anshuman Thukral ETO Yamunanagar, the SI searched Rajat son of Pawan Kumar resident Kacha Oila Mohalla Sadhaura, Police Station Sadaura, District Yamunanagar and the search of the white colour polythene hanging from the right handle of the motorcycle was carried out by the SI. During the search, Hydrochloride, Tramadol Hydrochloride Acetaminophen Capsules (SPASMO-PROXYVON PLUS having batch no. WAA3044, MFG.JUL was recovered from inside the white colour polythene hanging from the right handle of the motorcycle of above mentioned Rajat. 23, EXP.JUN.25, total 24 strips of which each strip has 24 capsules, making a total of 576 capsules were recovered. One mobile phone brand VIVO colourless light yellow in color with SIM number 9053046028 was recovered from the right pocket of the military colour lower worn by him. Currency notes worth Rs 600/- were recovered. The SI called Bindu Dhiman, Drugs Control Officer, Jagadhri (Yamunanagar) on his mobile number 8814972716 from his mobile number 9416094967 and requested him to come to the spot. The Drugs Control Officer, Jagadhri (Yamunanagar) asked the SI to send a separate application for taking opinion on the recovered narcotic capsules or a photo of the leaf of the recovered narcotic capsules or to take out 4 capsules from the leaf and weigh them and send the photo on WhatsApp. The SI took out the mobile-like computer weighing scale from the official vehicle and took out 4 capsules from one leaf of the recovered capsules and weighed them. On weighing, the weight of the 4 capsules came to be 2.46 grams. The total weight of the recovered 576 narcotic capsules came to be 354 grams 24 milligrams. The 4 capsules that were taken out were put in the same leaf and taped and a separate application was sent to the SI. After writing about taking opinion on the capsules or taking a photo of the leaf of Barada capsules, it was WhatsApped to the mobile number of the Excise Control Officer 8114972716, which the Excise Control Officer sent his report through WhatsApp to the SI, who wrote about Barada capsules coming under the category of NDPS Act, after that the SI put the narcotic capsules in the same white coloured polythene and put the polythene in a white coloured cloth bag and prepared a palanda and stamped the palanda by putting his RK/3 seal on it and prepared a sample seal by putting RK/1 stamp on a white coloured cloth piece and after the seal was used, it was handed over to EHC Gurmel Singh 689/KKR, who is a gazetted officer Shri Anshuman Thukral, ETO Yamuna Nagar also stamped the Palanda goods case narcotic capsules along with sample seal by putting his AK's 1/1 stamp. He got the seal stamped and kept the seal with himself after using it. Thereafter, the SI put the recovered mobile phone with SIM and 600/- currency notes in a white coloured cloth bag and prepared a palanquin. The SI put his RK/1 seal on the palanquin and got it stamped and the search report taken by the police as reason for the seizure was prepared separately. On the search report, Rajat above mentioned and the witness signed their respective signatures. The recovered palanquin goods, narcotic capsules with sample seal and motorcycle no. HR71B-4669 Marco SUPLENDER Barang Kala, which were taken by the police as reason for the seizure was prepared separately. On the recovery report, the accused Rajat above mentioned and the witnesses signed their respective signatures. The accused Rajat above mentioned had in his possession Hydrochloride, Tramadol Hydrochloride Acetaminophen Capsules (SPASMOPROXYVON PLUS) capsules illegally. The crime has been committed under section 22(c)-61-85 NDPS Act, for which an article is

being written and the registered case is being sent to EHC Gurmel Singh 689/KKR at Sadaura police station. After registering the case, the accused number should be informed at the spot and a special report of the First Information Report should be sent to the higher authorities and for further investigation at the spot, the second investigation officer, SI informed ASI Sandeep Kumar No. 75/A over phone. I SI am busy in investigation at the spot."

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has was not initially named in the instant FIR, but was subsequently roped in on the basis of disclosure statement of Rajat from whose possession, the alleged contraband i.e., 24 strips and each strip containing 24 capsules i.e., total 576 capsules make 'Spasmo Proxyvon Plus' containing salt 'Tramadol' was recovered. He undertakes before this Court that the petitioner is ready and willing to join the investigation. He has drawn attention of this Court to an order dated 17.02.2025 (Annexure P-4) passed in CRM-M-7696-2025 vide which co-accused Siddharth @ Sidharth Sahani has already been granted the concession of regular bail.

Notice of motion.

On behalf of the State/complainant

On the asking of Court, Mr. Chetan Sharma, DAG Haryana, accepts notice on behalf of respondent/State. He prays for dismissal of the present petition stating that the quantity recovered in the present case is commercial in nature, therefore custodial interrogation of the petitioner is required.

4. **Analysis**

Be that as it may, having given a considerable thought to the

incriminating material has put forth by the State to connect the petitioner with the alleged contraband and co-accused has already been granted the concession of regular bail vide order dated 17.02.2025 (Annexure P-4), 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. **Relief**

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.

01.03.2025

Meenu

(SANDEEP MOUDGIL)
JUDGE

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