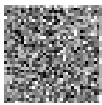


102

2025:PHHC:030917



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12206-2025
DECIDED ON: 05.03.2025

AKASHDEEP SINGH

.....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. Prayer

The jurisdiction of this Court has been invoked under Section 482 BNSS for grant of anticipatory bail to the petitioner in FIR No.53 dated 06.09.2024 registered under sections 21, 22,25,29 (section 27-B of NDPS Act and section 25 of Arms Act added later on) NDPS Act, 1985 at Police Station State Special Operation Cell, District Amritsar.

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

"To, The SHO PoliceStation State Special Operation Cell, Amritsar, Jai Hind, Today, I Sub Inspector along with staff members SI Satwinder Singh, SI Gurjinder Singh, ASI Daljit Kumar, ASI Narinder Singh, ASI Ramanpreet Singh, Head Constable Navdeep Singh, Head Constable Jagjit Singh, Constable Gurbaj Singh,

Constable Ranjinder Singh, Constable Jagroop Singh, and L/Constable Kulbir Kaur, were present at Bus Stand Amarkot in connection with the investigation of a case, along with government vehicles and mobile phones. A secret informer came and reported that Gurdeep Singh son of Ranjit Singh resident of Kalas Police Station Khemkaran, Tarn Taran, and Gurwinder Singh son of Mukhtiar Singh resident of Kalas, Police Station Khemkaran, Tarn Taran, are in contact with a Pakistani smuggler named Dogar, resident of Pakistan, and are actively involved in the smuggling of narcotics across the Indo-Pak border via drones. The informant further stated that recently, Gurdeep Singh and Gurwinder Singh obtained a consignment of narcotics sent by Dogar from Pakistan, and today, both of them are coming on a red Platina motorcycle without number plate to supply the said consignment to a party near the Bhurakona on the Khemkaran road by the canal. If a planned blockade of the area is conducted immediately, the aforementioned individuals can be apprehended with a large consignment of narcotics. This information was immediately brought to the notice of AIG SSOC Amritsar. The received information is deemed true and reliable, indicating the commission of offenses under sections 21, 22, 25, and 29 of the NDPS Act. Therefore, a ruga is being written and sent by hand with Constable Gurbaj Singh for the registration of a case. The case should be registered, and the case number should be communicated. Senior officers should be informed, and special reports should be issued. The DSP has been requested to reach the location. I, along with my team, am proceeding for the arrest of the accused and the recovery of narcotics based on this information. Location: Bus Stand Amarkot area. Time: 07:30 PM Sd/-: Sub-Inspector Kanwar Iqbal Singh, Police Station SSOC, Amritsar."

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely roped in the instant FIR only on the basis of disclosure statement of

co accused Ajaypal Singh @ Jagga and no recovery has been effected from the conscious possession of the petitioner apart from that no shadow of evidence is available to connect the petitioner with the offence in question. He further contends that the petitioner is ready and willing to join the investigation .

On behalf of the State

On the other hand, state counsel who is present in Court accepts notice on behalf of respondent-state and prays for dismissal of the instant petition by submitting that the contraband involved is 518 grams of ice heroin along with Rs.13,30,000/- of total drug money recovered from all the co-accused and the petitioner also belongs to the same group. He further submits that the contraband recovered was procured from Pakistani smuggler namely Doggar from Indo-Pak border with the use of drone which hints towards the petitioner having relations inter border.

Heard.

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.

With deep concern, this court has time and again pointed out the clandestine smuggling of narcotic drugs and psychotropic substances in the State of Punjab which have led to drug addiction among sizeable section of the public, particularly adolescents and students. This menace has assumed serious and alarming proportion in the recent times and such rising concern of drug peddling needs an efficacious solution.

To effectively address the drug menace caused by rapid drug smuggling, the concerned State Government should develop integrated policies that addresses the root cause of drug abuse, incorporating health, education and social welfare sectors. At this stage, it would be apposite to understand Article 47 of the Constitution of India which is read as under:-

"47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health-

"The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about

prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health".

A glimpse at Article 47 of the Constitution of India(One of the Directive based on Socialistic Principles) makes it ample clear that it is for the State to look into the improvement of public health and the prohibition of harmful substance.

Drug addiction is a multifaceted affliction that transcends the boundaries of mere criminality striking at the heart of our society's social and moral fabric. At its core, addiction is not simply a breach of law but a manifestation of deeper socio-economic imbalances, psychological vulnerabilities, and systemic neglect. The judicial approach must therefore extend beyond traditional punitive measures to embrace a framework that prioritizes rehabilitation, education, and community reintegration

In recognizing that the roots of addiction often lie in a complex interplay of economic disenfranchisement, social isolation, and mental health challenges, it becomes essential for the legal system to adapt its response accordingly. The law, while enforcing accountability, must also uphold the principle of human dignity .by facilitating avenues for recovery and transformation. This approach is anchored in the understanding that true justice does not reside solely in punishment but in the restoration of the individual and the community at large.

A reimagined strategy should involve a paradigm shift from a strictly retributive model to one that integrates therapeutic interventions and proactive social measures. The legal framework ought to work in tandem with healthcare professionals and community organizations to craft comprehensive solutions that address both the symptoms and the underlying causes of addiction. It is

imperative , therefore, that this observation guides the evolution of judicial thought towards a model where law enforcement and social welfare are not mutually exclusive but are interdependent in fostering an environment of healing and reintegration. By doing so, a transformative role can be played in mitigating the scourge of addiction, ensuring that the response to drug related issues is as nuanced and profound as the problem itself.

Coming to the instant petition, taking into consideration the expanding network of drug peddlers and facts of the case wherein the total quantity involved is 518 grams of ice heroin and the petitioner being allegedly part of the same group does not deserve the concession of bail.

Moreover, while addressing the objectives of the NDPS Act, the Hon'ble Supreme Court in the case of *Durand Didier v Chief Secretary, Union Territory Of Goa (1990) 1 SCC 95* emphasized that the rampant issue of clandestine smuggling and illegal trafficking of drugs and substances has led to widespread drug addiction, particularly among adolescents and youth. This has had a harmful and devastating impact on society.

With grave concern, it was noted that the organized activities of criminal groups and the illegal importation of narcotic drugs and psychotropic substances into the country have caused a significant increase in drug addiction, especially among young people and students, affecting both genders. The menace has grown to alarming proportions in recent years. Consequently, to effectively combat and eliminate this growing threat, which is causing severe and harmful effects on society as a whole, Parliament, in its wisdom, enacted the NDPS Act of 1985, introducing provisions that mandate minimum imprisonment and fines for such offences.

Further, 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.

The route between India and Pakistan is the most prominent route for the illegal trafficking for host of factors such as agricultural land, trains upto the borders and various riverine portions and most recently, drones. This well oiled machinery of drug circulation creates a massive illicit market, amplifies social conflict, breeds corruption and above all encourage drug consumption therefore to unveil the truth and bring out the humongous web of inter border drug peddling and role of the petitioner in the instant case, custodial interrogation of the petitioner is cardinal.

5. **Relief**

In the light of above stated facts and the law discussed along with the prevailing conditions of high rise in drug menace, the court is of the considered view that the petitioner does not deserve the concession of the anticipatory 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.

05.03.2025
Meenu

(SANDEEP MOUDGIL)
JUDGE

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