



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14113-2025
DECIDED ON: 17.03.2025

JODHBIR SINGH ALIAS JODHA ALIAS BUDH SINGH
.....PETITIONER

VERSUS

STATE OF PUNJABRESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Rakhi Sharma, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 of Bharatiya Nagarik Suraksha Sanita (BNSS), 2023 for grant of anticipatory bail to the petitioner in case FIR No.44 dated 21.06.2024 under Section 21(c) and later on added offence under Sections 29, 27A of Narcotic Drugs and Psychotropic Substances Act (Act No.61), 1985 registered at Police Station Sarai Amanat Khan, District Tarn Taran (Annexure P-1).

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

“SHO Police Station Jai Hind, today I ASI along with ASI Karam Singh 631/TT, ASI Gajjan Singh 1674/TT, ASI Kuldeep Singh No. 1037/TT, PHG Baldev Singh 4869 were on patrolling duty on private vehicle in search of anti-social elements along with laptop, printer and stationery and torch and were going from Police Station towards village Lahiya, Chahal, Naushehra, Dhala etc. and when

Police party while moving on the vehicle after reaching at Link Road village Lahiya then after stopping the Police party were talking to each other and then from the Link Road village Lahiya side one motorcycle with 2 person was seen coming towards Bus Stand Sarai Amanat Khan. That the headlight of motorcycle abovesaid was towards the private car parked on the roadside with the Police officials in the uniform then the aforesaid motorcycle driver suddenly applied brakes on the motorcycle and tried to turn backward and during this period, the aforesaid both young person fell down on the roadside along with motorcycle. That I ASI with the help of other officials moved forward and on the basis of suspicion got them apprehended and the motorcycle driver could not got up immediately as he was got apprehended and inquired about his name and address and he disclosed his name as Jobanpreet Singh alias Joban son of Surjit Singh son of Pal Singh resident of village DhalaNaushehra and his accomplice who immediately got up and ran towards the fields and I ASI with the help of other officials followed him and in the light of the torch saw that the aforesaid young person while running thrown away one plastic bag being held by him in his hands. That he was got apprehended and inquired about his name and address and he disclosed his name as Dilpreet Singh alias Dil son of Late Jagtar Singh son of Arjun Singh resident of village Chahal. That with the help of light of torch the aforesaid apprehended Dilpreet Singh abovesaid was taken near to the plastic bag being thrown by him and thereafter, the aforesaid plastic bag thrown by him was inquired into and he himself after lifting the same presented before me ASI and disclosed that the same contains heroin. He further statedthat we both were going in search of the customers for selling the said heroin and as such we have been got apprehended by you along with heroin. On this I ASI before conducting checking of the aforesaid plastic bag containing something the public witness was tried to join into the

Police party but no person to be associated into the Police party as witness today found since it was late in the night. On this 1 ASI checked the aforesaid plastic bag containing something after opening the same and accordingly, the heroin was got recovered from the abovesaid plastic bag. That the recovered heroin was got weighed with the help of electronic weighing machine and the total weight along with the plastic bag turns out to be 375 grams of heroin. That the recovered heroin thereafter was kept in one plastic box and parcel was prepared and the aforesaid parcel was got sealed by me ASI with my stamp SP and sample stamp was prepared separately. I ASI after completing the sample stamp taken the recovered heroin weighing 375 grams as evidence into the Police custody vide separate memo. I ASI after use handed over the stamp to ASI Gajjan Singh 1674/TT. 1 ASI taken the abovesaid recovered motorcycle Hero Splendor Plus black in colour without number recovered from the both abovesaid person into the Police custody vide separate memo. That aforesaid Jobanpreet Singh alias Joban and abovesaid Dilpreet Singh alias Dil by keeping 375 grams of heroin in their possession have committed an offence under Section 21-C/61/85 of NDPS Act. Thus, after writing the Ruqa on the laptop and after getting it typed and after taking the print out the same is being sent to the Police Station for registration of case against the both abovesaid person by hand PHG Baldev Singh 4869. After registering the case, the FIR number be informed. After issuing the special reports, the same be sent to the Illaqa Magistrate and senior officials. Control room be informed. Since it was a chance recovery as such the provisions of Section 50 of NDPS Act could not be fulfilled on the spot. I ASI along with other officials is busy in investigation at the spot. Sd./- Satpal 1785 Police Station Sarai Amanat Khan dated 20.06.2024. Today at Link Road village Lahiya within the jurisdiction of Sarai Amanat Khan time 11:55 pm."

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that as per the prosecution story, the alleged contraband i.e. 375 grams of heroin was recovered from the co-accused Jobanpreet Singh @ Joban and Dilpreet Singh @ Dil. He further contends that the petitioner was not initially named in the instant FIR but was subsequently roped in only on the basis of disclosure statement of co-accused Dilpreet Singh @ Dil. It has been submitted that the petitioner was neither present at the spot nor any such alleged recovery has been effected from him. He further contends that co-accused Gurbhej Singh and Gurlal Singh @ Hansa have already been granted the concession of anticipatory bail by this Court vide orders dated 11.09.2024 (Annexure P-3) and 20.09.2024 (Annexure P-4) passed in CRM-M-45172-2024 and CRM-M-46979-2024.

Notice of motion.

On behalf of the State

On the asking of the Court, Mr. Jaspal Singh Guru, AAG, Punjab accepts notice on behalf of the respondent-State, who does not controvert the aforesaid fact but opposes the grant of anticipatory bail to the petitioner on the ground that the quantity of recovered contraband is commercial in nature. He further submits that the petitioner is a habitual offender as he is involved in another case bearing FIR No.20, dated 28.03.2024, under Sections 21(c) and 29 of NDPS Act and Sections 10, 11 and 12 of Aircraft Act, registered at Police Station Sarai Amanat Khan, District Tarn Taran.

4. **Analysis**

Be that as it may, considering the fact that the petitioner was nominated as an accused only on the basis of disclosure statement of co-accused Dilpreet Singh @ Dil; Gurbhej Singh and Gurlal Singh @ Hansa have already been granted the concession of anticipatory bail by this Court vide orders dated 11.09.2024 (Annexure P-3) and 20.09.2024 (Annexure P-4) passed in CRM-M-45172-2024 and CRM-M-46979-2024; nothing has been recovered from the present petitioner as whatever recovery was effected was from other co-accused persons in addition to the fact that custodial interrogation of the petitioner is not required at this stage as nothing is to be recovered from him.

As far as 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 land the petitioner in a situation of denial of concession of bail.

5. **Relief**

In the light of above, the petitioner is directed to be released on anticipatory bail subject to him 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

17.03.2025

Poonam Negi

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No