



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

105

CRM-M-16467-2025

Date of Decision : **March 26, 2025**

BALWINDER KAUR ALIAS MAKHANI ALIAS MAKHNI

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present : Mr. Jaskirat Singh Dhaliwal, Advocate for the petitioner.

SANDEEP MOUDGIL, J. (Oral)

1. Prayer

The jurisdiction of this Court has been invoked under Section 482 BNSS seeking pre-arrest bail in case FIR No.26 dated 25.2.2025 (Annexure P-1), under Sections 21(b), 29 of NDPS Act, registered at Police Station Nathana, District Bathinda.

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

“Copy of Ruqa, "SHO PS Nathana, Fateh. Today I ASI along with Senior Constable Avtar Singh 1233/Bathinda and PHG Sukhmahinder Singh S/4/84 were riding government vehicle Scorpio number PB03W-5989 driven by C Arshpreet Singh 606/Bathinda along with laptop printer and investigation kit for patrolling qua suspected persons. When the police party was passing through the village of Chak Fateh Singh Wala towards Tungwali. When the police party was passing through village Chak Fateh Singh Wala it was around 12:25 PM that on the left hand side of the police party's vehicle a boy with haircut was standing on a street curve who after

worryingly looking at the police party started to slip back towards the street in a hurry. Then I ASI quickly, on the basis of suspicion, stopped the car and after stopping, with the help of fellow employees, caught the young man in the street and saw that the young man was holding a transparent polythene envelope in his right hand, in which heroin was clearly visible. Then I ASI tried to join private witness from nearby, but because of the neighborhood issue, the private witness could not be involved. Then I ASI told the arrested boy in the presence of witnesses my identity and asked for his name, and then he told his name as Narinder Singh alias Jia son of Gura Singh son of Bela Singh, 7 resident of Chak Fateh Singh Wala, District Bathinda. Then I ASI checked the transparent envelope held in the right hand of the arrested Narinder Singh and weighed it with a computer scale, and 05 grams of heroin including the transparent polythene envelope. Recovered enveloped containing the heroin was put in a cloth bag and tied the mouth of the bag with thread and Pulanda was prepared. I ASI sealed the pulanda hereoin with my seal letter NS. Sample seal was prepared and after that the seal was handed over to Senior Constable Avtar Singh 1233. Pulanda heroin was seized by the police, along with all the sealed samples, by separate recovery memo. Witnesses signed the memo. Then I ASI conducted personal search of the accused Narinder Singh and found no cash or other valuable items. Then personal search memo was prepared separately. Memo was signed by accused Narinder Singh said and the witness. The said accused Narinder Singh on cursory inquiry told that he brought this 05 grams of heroin from Balwinder Kaur alias Makhani D/o Darshan Singh resident of Chak Fateh Singh Wala. Possession of 05 grams of heroin by the said Narinder Singh and sale of heroin by Balwinder Kaur alias Makhani constitutes the offence u/s 21-B 29/61/85 of NDPS Act. Therefore, ruqa to register case against the accused Narinder Singh and Balwinder Kaur alias Makhani is sent to the police station through PHG Sukhmahinder Singh S/4/84. By filing a case, the number should be made aware of the case. Special reports to be issued. DCR Bathinda should be informed.”

3. Contention

On behalf of the petitioner

Learned counsel for the petitioner contends that as per the prosecution story, the alleged contraband i.e. 5 grams of heroin was recovered

from the co-accused namely Narinder Singh @ Jiya, the contraband recovered is non-commercial in nature. 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 namely Narinder Singh @ Jiya. It has been contended on behalf of the petitioner that nothing has been recovered from her conscious possession and is ready and willing to join the investigation and cooperate with the investigating officer concerned.

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 he is a habitual offender.

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 Narinder Singh @ Jiya and was not initially named in the instant FIR and the fact that the co-accused namely Narinder Singh @ Jiya has already been granted the concession of bail by the trial Court vide order dated 06.03.2025 (Annexure P-2); nothing has been recovered from the present petitioner as recovery of whatever contraband was effected was from other co-accused persons namely Narinder Singh @ Jiya added to the fact that custodial interrogation of the petitioner is not required at this stage as nothing is to be recovered from her.

5. Relief

In the light of above, the petitioner is directed to be released on anticipatory bail subject to her joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction for the reason that custodial interrogation of the petitioner is not required as it would be of no fruitful purpose to put the petitioner behind the bars. 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 and comply with the aforesaid condition under Section 482(2) of BNSS, 2023, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

March 26, 2025
ajay-1

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No