



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

105

CRM-M-16810-2025

Date of decision: 27.03.2025

Nirmal Singh @ Nimma

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.P. Soi, Advocate for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)**1. Relief sought**

The jurisdiction of this Court has been invoked under Section 482 BNSS seeking pre-arrest bail in case FIR No.8 dated 15.01.2025 under Sections 15(c) and 20 of NDPS Act and Section 61 of Punjab Excise Act, 1914 registered at P.S Mehatpur District Jalandhar.

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

“ Head Clerk PS Mehatpur "Jai Hind Today the undersigned INSP/SPO alongwith St Nishan Singh 423/Jal, S/CT Rajbir Singh 1129, PHG Bimal Kumar 28251 alongwith laptop and printer by boarding government vehicle Scorpio No. PB65-BH-0763 which was being driven by PHG Baldev Singh 28229 were patrolling in search of bad elements in the area of Kasba Mehatpur and were going through Kasba Mohalla Mehatpur then on the right side of car in one narrow street one man was going on foot who was holding a heavy plastic bag on his shoulders who at once at a fast pace returned towards the street upon which undersigned INSP/SPO after stopping the vehicle alongwith employees chased



him then he after throwing that heavy plastic bag in the gate of one house ran away whose identity was revealed as Nirmal Singh alias Nimma son of Ajit Singh resident of Kasba Mohalla Mehatpur PS Mehatpur. Upon which many houses from locality after knocking their gates and tried to associate some public witness and Sh. Rakesh Mehta MC of Ward No. 13 was contacted on phone number 96462-29300 who showed his helplessness by saying that Nirmal Singh alias Nimma is very dangerous man and is a smuggler and against him I cannot give any statement as it will endanger my life. Upon which one passerby Iqbal Singh alias Mintu son of Gurcharan Singh r/o Ashok Vihar Colony Nakodar was found present who was associated in party and plastic bag was opened from which poppy husk was found and near to it one more plastic bag was found which was opened and checked and from that also poppy husk was recovered and near to it two more plastic bags were found whose opening was already opened in which there were many plastic pepsi bottles in which illegal liquor was found and near to it one more plastic polythene was found which was opened and checked in which charas in the form of Dhoop was found. Upon which first recovered plastic bag which was having poppy husk was weighed which was found to be 29 kg 500 grams and second plastic bag was weighed on weighing scale which was found to be 23 kg 500 grams of poppy husk. Upon which undersigned INSP/SHO after fastening the both plastic bags with a thread sealed it with his stamp S.S and the other plastic polythene which was having charas was weighed which comes out to be 1 kilogram which was sealed in a cloth bag and parcel was prepared and sealed with stamp S.S and the other plastic bag in which illicit liquor was found it was taken out and counted which came out to be 25/25 bottles total 50 bottles of illicit liquor and every bottle was of 2 litres (2000/2000ML). Upon which all plastic bottles were put in a drum and one sample of 2 litres (2000ML) was took out separately and the rest of 98,000 ML illicit liquor was left after measuring. Upon measuring illicit liquor was put in one drum of plastic and its opening was covered with a lid and thereafter one thread was put on it and the same was sealed with stamp S.S and empty plastic bottles in one bag 25 bottles and in other 24 bottles it was sealed separately with stamp S.S and sample stamp was prepared separately and stamp after using was



handed over to SI Nishan Singh 423 and undersigned INSP/SHO took in police possession one plasti bag with poppy husk weighing 29kg 500 gms, second plastic bag with poppy husk weighing 23kg 500 grams, parcel of charas weighing 1 kilogram and drum pastic with illicit liquor measuring 98,000 ML alongwith one sample of two litres (2000MLO and one plastic bag with 40 empty bottles through a separate memo as evidence. Because accused Nirmal Singh alias Nimma son of Ajit Singh r/o Kasba Mohalla Mehatpur PS Mehatpur by keeping in his possession 52kg poppy husk, 1 kg of charas and 100000ML illicit liquor therefore an offence u/s 15(c), 20-61-85 NDPS Act and 61-1-14 Ex Act has been committed. Against whom to register an FIR ruqa has been written and sent by hand PHG Bimal Kumar 28251 to Police Station. After registration of FIR, number of the same may be intimated. Special report may be issued to Illaqa Magistrate and officers and control room may be informed. Undersigned INSP/SHO alongwith fellow employees is busy in investigation. Today in the area of Kasba Mohalla Ward no. 13 Mehatpur at 10:30 PM, Lati:31.049964, Longi: 75.477430 Sd/- Sukhdev Singh INSP, SHO PS Mehatpur dated 15-1-2025. Today in Police Station: Upon receipt of aforesaid writing in Police Station a First Information Report under aforesaid acts has been registered and original writing alongwith copy of FIR is sent by hand PHG to the spot to INSP/SHO for investigation. Special report are being issued by hand through S/CT Kuldeep Singh No. 1153/Jal to Illaqa Magistrate and officers. Control Room is being informed. ”

3. Contention

On behalf of the petitioner

Learned counsel for the petitioner would contend that false recovery has been foisted upon the petitioner. The case put up by the prosecution is highly improbable wherein it is alleged that the petitioner was carrying a bag and on seeing the police party, he threw the contraband in a house and fled the spot but was apprehended and upon search of the said house, Investigating agency recovered one polythene bag containing 23 kilo 500 grams of poppy husk along with another plastic bag containing 29 kilo 500 grams of poppy husk and 50



bottles of illicit liquor of 2 litres each i.e 98000 ML. That apart, the petitioner has no criminal past and the house from where alleged recovery has been effected does not belong to him.

Notice of motion.

On behalf of the State

On the asking of the Court, Mr. Aashish Bishnoi, Advocate accepts notice on behalf of the respondent-State, who does not controvert the aforesaid facts and could not put forth any incriminating evidence to substantiate that the alleged recovery was from the petitioner only and prays for denial of the concession of bail by submitting that custodial interrogation of the petitioner is required to ascertain the source from where the contraband was procured.

4. Analysis

Be that as it may, it is categoric case of the petitioner that the house from where the alleged recovery is effected does not belong to him and learned State is also not in a position to controvert this fact. Considering the facts of the present case, this Court prima facie finds the whole prosecution case to be planted and highly improbable and thus, custodial interrogation of the petitioner is not required at this stage as nothing is to be recovered from him.

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 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

27.03.2025

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| 1. Whether speaking/ reasoned | : | Yes /No |
| 2. Whether reportable | : | Yes /No |