

2025:PHHC:008243



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

108 +221

CRM-M-21392-2024 (O&M)
DATE OF DECISION: 21.01.2025

KULWINDER SINGH

.....PETITIONER

VERSUS

UNION OF INDIA TH. INTELLIGENCE OFFICER

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Deepak Aggarwal, Advocate
for the petitioner(s).

Mr.T.S. Sullar, Advocate
Central Government for NCB.

SANDEEP MOUDGIL, J (ORAL)

CRM-2285-2025

This application has been filed for placing on record the call record details and agreements to the ownership of the vehicle vests in the petitioner.

For the reasons mentioned in the application and keeping in view the submission made by counsel for the applicant, the application is allowed and documents R-1 and R-2 are taken on record, subject to all just exceptions.

CRM-M-21392-2024

This petition has been filed under Section 439 Cr.P.C for grant of Regular Bail to the Petitioner in NCB Crime No. 18/2023

dated 08.07.2023 under Section 8, 18, 25, 27A, 29/60 of NDPS Act 1985, P.S. NCB Amritsar Zonal Unit.

As per prosecution version, on 07.07.2023, a secret information was received that the accused are coming on a car bearing registration No. HR-44-H-9628 alleged to be carrying opium. On the basis of said secret information NCB, Sub Zonal Unit, Amritsar laid a picket near Lehra Begha, Toll Plaza, Barnala Road, Bathinda and apprehended the accused Rajesh Kumar and Kulwinder Singh (petitioner) while coming on the afore-said car. From the search of car, 3.860 Kgs opium was recovered from the accused.

It has been contended by learned counsel for the petitioner that the secret information received by law enforcement only pertains to the co-accused Rajesh Kumar Yadav, and the petitioner is not named or implicated in this information, meaning thereby, there is no direct evidence or intelligence linking the petitioner to the alleged criminal activity. It is argued on behalf of the petitioner that he has been implicated solely for being the driver of the car, from which contraband (opium) was allegedly recovered. Additionally, the petitioner claims ignorance about the involvement of Rajesh Kumar Yadav in the sale and purchase of opium, which could imply that the petitioner was simply performing a role without being aware of the criminal activity

Learned counsel for the NCB has prayed for dismissal of the present petition stating that the petitioner was the driver of the car from which 3.860 Kg Opium stands recovered and the quantity of alleged contraband is commercial in nature. Since the drugs were in

the vehicle controlled by the driver, it cannot be said that the petitioner was not having the knowledge or involvement in the illicit activity.

Counsel for NCB submits that three co-accused persons were already on bail and are not permitting the trial to proceed further as is evident from the copies of orders dated 20.11.2024, 11.12.2024 and 03.01.2025.

Heard learned counsel for the parties.

The petitioner, as the driver, had control over the vehicle and therefore could be presumed to have knowledge of what was inside. Moreover, the discovery of contraband in the car, in which the petitioner was the driver, provides a legitimate reason to suspect his involvement, even if the petitioner was not mentioned in the initial information.

It is evident that the main accused Rajesh Kumar Yadav and the present petitioner were in constant touch even prior to the registration of the FIR i.e. to say from 04.03.2023 and the same is evident from Annexure R-2 (CDR) and is corroborating the assertion made by counsel for NCB to the effect that he is guilty of alleged offences along with other accused persons who have been though granted bail but are now creating hurdles in the progress of the trial proceedings.

The drug is a social malady, while drug addiction eats into the vitals of the society whereas drug trafficking not only eats into the vitals of the economy of a country, but illicit money generated by drug trafficking is often used for illicit activities including encouragement of terrorism. The devastating effects of narcotic drugs on any person who

comes to its touch are too well known. Normally, such a person ceases to be a normal human being, and is more or less reduced to zombie living animal existences and rushing fast to meet the maker. Divine qualities of an individual who consumes narcotic drugs disappear and they are the first sacrifices one normally makes while falling prey to use of drugs. Anxiety of legislature is to prevent the adverse affect of such drugs and substances on the society.

Based on the aforementioned facts, the court can reasonably conclude that the petitioner is involved in a criminal conspiracy aimed at facilitating the commission of an offense. Upon perusal of FIR, it is clear that the petitioner, along with his co-accused, is engaged in the illegal drug trade, contributing to the addiction of young boys. As a result, these young individuals are resorting to theft and other criminal activities to satisfy their drug cravings. This highlights the state government's failure to address the growing drug problem, which is particularly alarming in Punjab. The widespread drug abuse is severely undermining the future of the country, as it is gradually eroding the youth population, much like a termite.

In light of these concerns, the court, as the guardian of its citizens, deems it essential to take decisive action against such offenders, especially when the lives and futures of the nation's youth are at stake. The drug epidemic must be tackled with the utmost seriousness. The illegal activities carried out by the individuals involved must be met with resolute measures. The intent of the legislature and the integrity of the rule of law must be preserved at all

costs, and cannot be allowed to be undermined, irrespective of the quantity of drugs involved.

Further more Under Section 37 of the NDPS Act, 1985, an individual accused of an offence involving a commercial quantity of narcotic drugs or psychotropic substances cannot be granted bail unless the court is convinced that there are reasonable grounds to believe that the accused is not guilty of the offence and that they are not likely to commit any further offences while on bail.

In the present case, the court finds no reasonable grounds to believe that the accused/applicants are not guilty of the offence attributed to them, nor is there any indication that they would refrain from committing further offences if granted bail.

Keeping in view the afore-said facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail.

Hence, the present petition is hereby, dismissed.

(SANDEEP MOUDGIL)
JUDGE

21.01.2025
sham

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

