



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

CRM-M-17566-2025

Date of Decision : April 01, 2025

SHYAM SINGH

.....Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present : Mr. Jagjit Singh Gill, Advocate for the petitioner.

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/F No.NCB/CZU/Cr. No.23/2024 dated 10.12.2024, under Sections 8,15, 29 of NDPS Act, registered at Police Station NCB, Chandigarh.

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

“1. That the complainant, Akhildes Officer/Sub-Inspector in the Narcotics Control Burewa (NCB) Chandigarh Zonal Unit, and is a public servant duly authorized to conduct search, seizure, and arrest under the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the "Act"). He is also empowered to sign and present complaints under Section 36-A of the Act, as per Notification

S.O. 63(4)(C)(E), dated 27-09-1989, and Officer Order 184/2023, dated 04.08.2023 (F. No. 11/16(1)/2022-Estt). His jurisdiction extends over the Chandigarh Zonal Unit, covering the states of Punjab, Himachal Pradesh, and Haryana, except the National Capital Region (NCR). As the Investigating Officer, he is well-versed with the facts of the case. This complaint is being filed in the discharge of his official duties, based on the case records.

2. That Rakesh Kumar, Inspector, NCB Chandigarh, is duly authorized to conduct search, seizure, and arrest under the NDPS Act, 1985, as of 09.12.2024.

3. That Smt. Meera Kumari Meena, Superintendent, NCB Chandigarh, is an empowered officer under the NDPS Act, 1985, being a Gazetted Officer.

4. That facts of the case leading to the filing of the present complaint are that on 09.12.2024 at about 1700 Hrs an information was received by Ashish Tiwari, Sub-Inspector, NCB, Chandigarh that two persons namely Vipin kumar S/o Shri Keshav Prasad and Anil Kumar S/o Shri Joginder Pal R/o House No.07, Street No.02, Pathan Chakk, Pathankot, Gurdaspur, Punjab are travelling in Train No.09097 (Shree Mata Vaishno Devi AC Superfast Special (SMVD)). They will go to Ludhiana, Punjab via Ambala Cantt tonight and they are carrying a large quantity of Poppy Husk with them.

5. That the above-mentioned intelligence input was formally documented by Ashish Tiwari, Sub-Inspector, NCB Chandigarh, wherein he further noted that a search operation on the specified train at an appropriate railway station could potentially lead to the seizure of a significant quantity of Poppy Husk. The written report was then submitted to Smt. Meera Kumari Meena, Superintendent, NCB Chandigarh, who, after reviewing the information, approved the formation

of a special operations team to take necessary legal action.

The team comprised:

- i. Rakesh Kumar, Inspector (Seizing Investigating Officer)*
- ii. Karamvir Singh, Inspector (Co-Investigating Officer)*
- iii. Himanshu Anand, Inspector*
- iv. Sonu, Sub-Inspector*
- v. Kulwinder, Sepoy*
- vi. Sukhaveer, Sepoy (Responsible for Videography)*
- vii. Inder Singh, Driver*

6. That additionally, Akhildas K H, Sub-Inspector, was assigned as the Investigating Officer (IO) of the case. Following this, the NCB team proceeded to Ambala Cantt Railway Station, Ambala, Haryana, on 09.12.2024, to carry out further legal action in accordance with the law. Search Authorization was issued in the name of Rakesh Kumar, Inspector.

7. That upon reaching the designated location at approximately 12:05 AM, two officials Kulbir Singh, Sub-Inspector, RPF (NK-8700436), Ambala Cantt, Haryana, and Naveen, RPF, CIB, Ambala Cantt, Haryana-were formally requested in writing to join the proceedings as independent witnesses, to which they willingly agreed. Subsequently, Rakesh Kumar, Inspector, introduced himself and his team to the independent witnesses by displaying his official identity card. He then shared the confidential intelligence with them, informing that two individuals Vipin Kumar, S/o Shri Keshav Prasad and Anil Kumar, S/o Shri Joginder Pal, resident of House No. 07, Street No. 02, Pathan Chakk, Pathankot, Gurdaspur, Punjab were traveling on Train No. 09097 (Shree Mata Vaishno Devi AC Superfast Special SMVD). The information further indicated that the suspects were en route to Ludhiana, Punjab, via Ambala Cantt, that night, and were allegedly carrying a large quantity of Poppy Husk. The

seizing officer formally requested the independent witnesses to be present during the search operation to ensure transparency, to which both voluntarily agreed. They were also issued notices under Section 103(8) of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.

8. That, thereafter, both the independent witnesses, along with the NCB team, waited for the train to arrive at platform No. 06 at Ambala Cantt railway station. At around 01:25 AM, Train No. 09097, SMVD AC-Special, arrived at platform No. 06 at Ambala Cantt railway station. After the train's arrival, the CB7 witnesses, began searching for the two individual description from the secret information.

9. That after searching through approximately four to five coaches, the NCB team found two individuals matching the given details in the copy before the engine. The officer then asked both individuals to disclose their identities, upon which the first person introduced himself as Vipin Kumar, S/o Sh. Keshav Prasad, R/o Dugri, Ludhiana, Punjab, while the second person introduced himself as Anil Kumar, S/o Sh. Joginder Pal, R/o Gurdaspur, Punjab.

10. That, thereafter, the officer informed them about the secret information received and stated that they were suspected of carrying a large quantity of Poppy Husk, to which they agreed. The officer further informed them that he had the relevant authorization to conduct the search, after which he obtained their signatures as acknowledgment before proceeding. Subsequently, the officer instructed both individuals to disembark from Train No. 09097 along with their luggage. Upon this, both accused persons alighted with their luggage onto platform No. 06. Their belongings included one trolley bag each (black and grey in color) and one black handbag each.

11. That, before searching the luggage, the seizing officer offered both accused persons the opportunity to conduct a personal search of him and his team members. However, they declined, expressing confidence in the officials.

12. That, thereafter, in the presence of both witnesses, the accused were instructed to give search of their belongings on platform No. 06 at Ambala Cantt railway station. During the initial search, a suspicious substance was found inside a black plastic sack placed in Vipin Kumar's trolley bag beneath a shawl. Vipin Kumar then opened the sack, revealing a light-colored substance inside. The officer took a small sample of the substance and tested it using the DD kit he had brought with him. The test result was positive for Poppy Husk. Subsequently, Vipin Kumar opened his handbag, which contained some clothing, but no other suspicious items were found inside.

13. That, thereafter, Anil Kumar opened his grey-colored trolley bag, which contained three plastic sacks (yellow and white in color) that closely resembled the one found in Vipin Kumar's bag. Upon opening each sack, a light brown-colored substance was found inside. The officer took samples from all three sacks and tested them using the DD kit, which confirmed the presence of Poppy Husk.

14. That due to heavy passenger traffic at the railway station and an increasing crowd gathering on the platform, the entire NCB team, both independent witnesses, the accused persons, and the recovered contraband proceeded to the RPF office located on Platform No. 01 at Ambala Cantt railway station for further search and seizure procedures.

15. That after reaching RPF office, the plastic sack found from Vipin Kumar's black coloured trolley bag was weighted on the weighing machine and it was found to be 18.920 Kg and it was marked as P-1. After that three plastic sacks found

from Anil Kumar's grey coloured trolley bag were weighted. The first plastic sack (white colour) was weighed and it was found to be 6.560 Kgs and it was marked as P-2. Similarly, the third and fourth plastic sacks were also weighed and it was found to be 3.100 Kgs and 10.360 Kgs and marked as P-3 and P-4 respectively. The total weight of these four bags was 38.920 Kgs. Then the mouth of these four sacks was stitched using needle and thread and a small square cardboard was attached by stitching. The said cardboard was lock sealed with the seal of NCB CHD-15, and then the details of the case were written on all the packets. After this Rakesh Kumar, Inspector took the NCB departmental seal NCB CHD-15 from Karamvir Singh, Inspector and all the packets were sealed with the help of lac.

16. That, thereafter, both the bags from which Poppy Husk was recovered were sealed in white markin cloth and stitched using a needle and thread. A small square cardboard tag was attached by stitching, and the said cardboard was lock-sealed. The first trolley bag (black in color) was marked as LOT-T1, while the second trolley bag (grey in color) was marked as LOT-T2. After this, both bags were further sealed with lac, and the details of the case were written on them. The seal was then returned to Karamvir Singh, Inspector.

17. That, thereafter, a panchnama was prepared in a systematie manner to document the entire proceedings. The officer also prepared the Recovery cum Seizure memo and Mauka Naksha. The panchnama was read aloud to all concerned, and upon finding it correct, the accused, witnesses, 10, and CO-JO signed the documents.

18. That the panchnama proceedings were completed at approximately 0525 Hrs on the spot, and the entire seizure process was video-recorded using the departmental phone

with a newly inserted memory card (number 42020CWM506F) by Sukhaveer Singh, Sepoy.

19. That an impression of the seal was affixed as a sample seal on the panchnama. After this, NCB Crime No. 23/2024 was registered under Sections 8, 15, and 29 of the NDPS Act.

20. That, thereafter, Rakesh Kumar, Inspector, explained the provisions of Section 67 of the NDPS Act to Vipin Kumar S/o Keshav Prasad and Anil Kumar S/o Joginder Pal. They were served with a notice under Section 67 of the NDPS Act dated 10.12.2024 on the spot and were informed that they could record their voluntary statements by appearing before the investigating officer.

21. That the case property, marked as LOT-P1 (18.900 kg), LOT-P2 (6.560 kg), LOT-P3 (3.100 kg), and LOT-P4 (10.360 kg), along with LOT-T1 and LOT-T2 (two trolley bags), sealed with one seal of NCB CHD-15, was deposited in the NCB Chandigarh godown on 10.12.2024. This was recorded under godown register entry No. 23/2024, and a godown receipt dated 10.12.2024 was issued by Smt. Meena Kumari Meena, Superintendent and Officer-in-Charge of the Godown, NCB Chandigarh Zonal Unit.

22. That the crime case file of NCB Cr. No. 23/2024 was handed over to Akhildas K H, Sub-Inspector, for further investigation, vide office order NCB F.No-VIII/NCB/CZU/CF-C/23/2024 dated 10.12.2024, issued by Mrs. Meera Kumari Meena, Superintendent. The handing-over and taking-over process was completed accordingly.

23. That accused Vipin Kumar was informed about the provisions of Section 67 of the NDPS Act by Akhildas K H, I.O., including the fact that his statement could be used against him or any other person as evidence in a court of law and that he had the right to remain des Anesed Vipin Kumar admitted to the manner and factum of the recovery of Poppy

Thank in his statement. He voluntarily stated that on 02.12.2024, he and bes Giend Anil Kumar 8/0 Joginder Pal travelled to Bhawani Mandi Jhalawar, Rajasthan, to purchase Poppy Husk. There, they enst pers named Shyam Singh and bought the Poppy Husk from him, each paying 1,00,000 to Shyam Singh. On their return journey to Ludhiana via Shri Mata Vaishno Devi train (SMVD) No. 09097, the train stopped at Ambala Cantt Railway Station, where NCB officials approached them, identified themselves, and requested them to get off with their luggage. Upon searching the black trolley bag of Vipin Kumar, the NCB team found a plastic sack containing 18.900 kg of Poppy Husk, concealed under a shawl. Based on his voluntary statement and incriminating role, he was arrested by the complainant on 10.12.2024, under Sections 8, 15, and 29 of the NDPS Act, 1985. He was informed of the grounds of arrest, and an arrest memo was prepared.

24. That a Jama Talashi was conducted, and a Jama Talashi memo was also prepared. As per the accused's request, information about his arrest was conveyed to his family, and a memo in this regard was also prepared.

25. That accused Anil Kumar was informed about the provisions of Section 67 of the NDPS Act by Akhildas K H, I.O. Accused Anil Kumar admitted to the manner and factum of the recovery of Poppy Husk in his statement. He voluntarily stated that on 02.12.2024, he and Vipin Kumar travelled to Bhawani Mandi, Jhalawar, Rajasthan, to buy Poppy Husk. He further stated that he had known Vipin Kumar for three years. There, they met Shyam Singh, from whom they purchased the Poppy Husk, each paying 1,00,000. During their return journey on Shri Mata Vaishno Devi train (SMVD) No. 09097, the train stopped at Ambala Cantt Railway Station, where NCB officials identified themselves and

requested them to get off with their luggage. Upon searching the grey-colored trolley bag of Anil Kumar, the NCB team found three plastic sacks of Poppy Husk. Based on his voluntary statement and incriminating role, he was arrested on 10.12.2024, under Sections 8, 15, and 29 of the NDPS Act, 1985. He was informed of the grounds of arrest, and an arrest memo was prepared.

26. That a Jama Talashi was conducted, and a Jana Talashi memo was also prepared. As per the accused's request, Information about his arrest was conveyed to his family, and a memo in this regard was also prepared.

27. That the accused persons, Vipin Kumar and Anil Kumar, after their medical examination on 10.12.2024 and 11.12.2024, were produced before the Ld. Court of JMIC-CUM-DUTY/AREA Magistrate, Ambala, where the Hon'ble Court granted a two-day NCB remand.

28. That the bulk case property was produced before the Hon'ble Ld. Court of JMIC-CUM-DUTY/AREA Magistrate, Ambala, on 11.12.2024, along with the original video of the seizure recorded on the spot, accompanied by a certificate under Section 63(4)(C) of the Bhartiya Sakshya Adhiniyam. A test memo was prepared in triplicate, and eight samples were drawn as P1-A, P1-B, P2-A, P2-B, P3-A, P3-B, P4-A, and P4-B (each containing 0.500 kg of Poppy Husk) in the presence of the Hon'ble JMIC-CUM-DUTY/AREA Magistrate, Ambala.

29. That the case properties, i.e., LOT-PI, LOT-P2, LOT-P3, and LOT-P4, were opened after breaking the seal of each lot and then re-sealed with a seal bearing the impression 'K.K'. Test memos in triplicate were drawn in the Ld. Court. Photographs of the sampling process were taken, and a fresh inventory was prepared after drawing court samples. The Ld. Court further ordered that samples P1-A, P2-A, P3-A, and

P4-A, sealed with the seal of mark 'K.K', be handed over to the Investigating Officer (L.O.) for dispatch to CRCL, New Delhi. The remaining case properties, i.e., LOT-P1, LOT-P2, LOT-P3, LOT-P4, duplicate court samples marked as P1-B, P2-B, P3-B, P4-B, and trolley bags LOT-T1 and LOT-T2, sealed with seal impression 'K.K', were directed to be deposited in the NCB Malkhana, Chandigarh.

30. That a compliance report under Section 57 of the NDPS Act regarding the search and seizure was submitted by Rakesh Kumar, Inspector, to the Superintendent, Narcotics Control Bureau, Chandigarh, on 11.12.2024.

31. That a compliance report under Section 57 of the NDPS Act regarding the arrest of accused was submitted by Akhildas K H, to the Superintendent, Narcotics Control Bureau, Chandigarh, on 11.12.2024.”

3. Contention

On behalf of the petitioner

Learned counsel for the petitioner contends that it is a case of no recovery and the petitioner has been falsely implicated in the present case on the basis of disclosure statements of accused Vipin Kumar and Anil Kumar from whom the alleged 38.920 kgs of poppy husk has been recovered, which is non-commercial in nature. He would submit that the case put forth by the petitioner is to the effect that the main accused stands arrested and the recovery of contraband is from that accused alone. It has been contended on behalf of the petitioner that he 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. B.S.Virk, Sr. DAG, Haryana accepts notice on behalf of the respondent-State, whereas Mr. Sourabh Goel, Special Public Prosecutor accepts notice on behalf of NCB, Chandigarh and submits that the petitioner is named as main supplier of the contraband, but could not controvert such allegations when no cogent and material evidence is available on the record. In as much as on a specific query, the learned counsel for the petitioner would submit that he is also not involved in any other case, which has also been categorically pleaded on behalf of the petitioner as well and this fact is also not denied by the respondent-State.

4. Analysis

Be that as it may, considering the fact that the alleged contraband is recovered from co-accused Vipin Kumar and Anil Kumar and the same is non-commercial in nature. Admittedly nothing incriminating is to be recovered from the petitioner at this stage.

5. Relief

In the light of above, and having regard to the submissions made on behalf of the respective counsel, this Court is of the considered opinion that the custodial interrogation of the petitioner is not required into, in case he shows his *bonafide* and ready to cooperate with the investigating officer, the petitioner is directed to be released on anticipatory bail subject to his 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 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

April 01, 2025
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No