

2025:PHHC:058283



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

**CRM M-21474 of 2025**

**Date of Decision: 29.04.2025**

Ghan Shyam Saini

...Petitioner

Versus

State of Haryana

... Respondent

**CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT**

Present : Mr. Kulwinder Singh, Advocate, for the petitioner.

Mr. Rajinder Kumar Banku, DAG, Haryana.

**N.S.SHEKHAWAT, J. (Oral)**

1. The petitioner has filed the present second petition under Section 483 of the BNSS with a prayer to grant regular bail to him in case FIR No.114 dated 23.04.2024 registered under Sections 21(C) of the NDPS Act, 1985 at Police Station Khol, District Rewari.

2. The FIR in the present case was registered on the basis of the statement made by Inspector Anil Kumar of Haryana State Narcotics Bureau and the same has been reproduced below:-

*“To The SHO, Police Station Khol, District Rewari, Jai Hind. Today, Inspector Anil Kumar 41/Narnaul HSNCB Unit Rewari along with HC/EASI Rohtas Kumar 689/ Rewari, HC/EASI Sunil Kumar 537/ Rewari, Pra. SI.*

*Suresh Kumar 685/ Rewari, SI Deepak 675/ Narnaul, SI. Mandeep 864/ Rewari along with government vehicle No. HR 05-GV-7275 driver HC Anil Kumar 457/Rewari along with research bag, drug detection kit, digital weighing scale, personal laptop and portable printer was present at drug prevention patrol Kund barrier bus stand when the special informer met him and informed that Dinesh alias Mota son of Subhash Chand alias Kalu Soni resident of Bad Ka Kuan Narnaul and Ghanshyam Saini son of Mohar Singh Saini resident of Dhobi Jod Narnaul, who deal in selling the narcotic substance Chitta (Heroin), will be coming from Delhi to Narnaul today in vehicle No. HR-13-L-0296 with the narcotic substance Chitta (Heroin). If a check post is set up immediately, the narcotic substance including Chitta (Heroin) can be controlled. On considering the information to be true, informing the fellow employees, a notice was prepared under section 42 of NDPS Act and a report was registered, the diary was sent to the police station through HC/EASI Rohtas Kumar 689/ Rewari for officer, and as per the information, a check post was set up at toll tax per village Palda District Rewari on Maukarewadi Normal road. Independent witness Vedprakash son of Benwari resident Padla police station Khol District Rewari was included in the check post. After some time, a white colour car was seen coming from Rewari whose number was HR-13-L-0206. When I signalled it to stop, the driver stopped the car near the check post and the driver and the two boys sitting on the seat next to the driver were looking out of the window of the car. When they opened the door and started running away, I got down from the conductor's seat and caught*

*the fleeing boy and the driver at a little distance with the help of C. Mandeep No. 854/ Rewari and brought them to the vehicle. When I asked the name and address of the boy I had caught, he told me his name was Dinesh alias Mota, son of Subhash Chand alias Kalu Soni, resident of Bad Ka Kuan, Police Station City, Narnaul, District Mahendragarh and the boy caught by SI Mandeep told his name as Ghanshyam Saini son of Mohar Singh Saini resident of Indra Colony near Dhobi Johad Narnaul Police Station City Narnaul District Mahendragarh. I introduced myself and my entire team to the above-mentioned accused Dinesh and Ghanshyam and prepared notices under section 50 NDPS Act separately and told them that there is confirmed information that Dinesh and Ghanshyam have narcotic substance Chitta (Heroin) and you are to be searched. You have the legal right to get your search done by calling any gazetted officer or duty magistrate sahab on the spot or you can be presented before them. You are aware of this notice and express your consent. Accused Dinesh alias Mota and Ghanshyam and HC/EASI Sunil Kumar 537/Rewari, SI Mandeep 864/Rewari, Vedprakash son Banwari resident Padla have signed the notice. The accused Dinesh and Ghanshyam expressed their wish to go and hand over their own bodies and their vehicle to a gazetted police officer for search. As per the wish of the accused, reply notice u/s 50 NDPS Act was prepared. The accused have signed their reply to notices and witnesses HC/EASI Sunil Kumar 537/ Rewari, SI Mandeep 864/ Rewari, Vedprakash son of Banwari resident of Padla have signed both the reply notices. At the same time, HC/EASI Rohtas Kumar 689/Rewari has*

come to the spot after giving information to Khol Police Station, Rewari and getting the report recorded in the diary, I, the Inspector along with my fellow employees and Vedprakash, leave for the above mentioned persons Dinesh and Ghanshyam and vehicle no. HR-13-L-0296 at the residence of Mr. Ashish Chaudhary HPS DSP Rewari, Police Line, Rewari. Now I have reached the residence of Shri Ashish Chaudhary HPS DSP Rewari at Police Line Rewari along with Inspector, colleague, Vedprakash and accused Dinesh and Ghanshyam vehicle no. HR-13-L-0296. Shri Ashish Chaudhary HPS DSP Rewari is present at his residence. I told all the circumstances to DSP sahab. DSP sahab conducted personal search of all the employees. No suspicious item was recovered from any employee. A separate personal search report was prepared on which accused Dinesh and Ghanshyam and independent witness Vedprakash signed. DSP sahab instructed me to search the accused Dinesh and Ghanshyam and the vehicle. As per the order of Shri Ashish Chaudhary DSP Rewari, accused Dinesh alias Mota son of Subhash Chand alias Kalu Soni resident of Bad Ka Kuan Narnaul District Mahendragarh and Ghanshyam Saini son of Mohar Singh Saini resident of Dhobi Johad Narnaul district Mahendragarh. During the search of District Mahendergarh and his vehicle No. HR-13-L-0296 color white brand Honda which was brought to the notice of the inspector as per rules, a white polythene was found in the right pocket of cream colour lower pyjama worn by accused Dinesh alias Mota son of Subhash Chand alias Kalu Soni above. When it was opened and checked, a cream coloured round laddu like narcotic substance

was found in it. When checked with the detection kit, the narcotic substance was found to be Chitta (Heroin). When the above mentioned accused Dinesh alias Mota son of Subhash Chand alias Kalu Soni and Ghanshyam Saini son of Mohar Singh Saini were asked about this, they told that the narcotic substance is Chitta (Heroin) which was taken out from the polythene and weighed with an electronic weighing scale and the weight of Chitta (Heroin) was 282.11 grams. After putting Chitta (Heroin) in the same white colour plastic polythene, put it in a plastic box and making a cloth cover, I stamped the cover by putting three AK stamps and Shri Ashish Chaudhary DSP Rewari sealed the cover by putting one of his SK stamps and the sample seal was prepared on a separate cloth which I after putting my seal handed over to witness HC/EASI Sunil Kumar 537/ Rewari. Shri Ashish Chaudhary DSP Rewari kept the seal with himself after the cover. After that, when the above mentioned accused Ghanshyam Saini son of Mohar Singh Saini was searched, no intoxicating substance was found from the accused. After that, when the vehicle was searched, no intoxicating substance was found in it. The cloth, palanda, chitta (heroin) stamped and vehicle no. HR-13-L-0296 was taken into police custody as evidence in Bajaria Fard. The above-mentioned accused Dinesh alias Mota son of Subhash Chand alias Kalu Soni and Ghanshyam Saini son of Mohar Singh Saini and witnesses HC/EASI Sunil Kumar 537/Rewari, SI Mandeep 864/Rewari, Vedprakash son Banwari resident of Padla District Rewari have signed their signatures. All the documents, palanda and sample seal have been verified by DSP sahab. Photos of the proceedings were

*taken which will be attached with the police file. After which, I, the Inspector along with my fellow employees, witnesses, case goods and the accused, leave from Rewari to Narnaul Road near Village Padla Toll Tax. After acting, I, the Inspector along with my fellow employees, witnesses, case goods and the accused, have reached Narnaul Road near Toll Tax from Rewari, village Padla, the place of incident. The above-mentioned accused, Dinesh alias Mota son of Subhash Chand alias Kalu Soni and Ghanshyam Saini son of Mohar Singh Saini, have committed the offence under Section 21-C-61-85 of NDPS Act by keeping in their possession a total of 282.11 grams of narcotic substance Chitta (Heroin), hence this complaint. For getting the matter settled, the charge is being sent to the police station in the hands of SI. Deepak 675/ Narnaul. Special report of the charge should be sent to the officer or area magistrate through special carrier as per rules. After registering the charge, inform the number of the charge or another competent investigation officer should be sent to the spot. I am present at the spot along with the inspector, witnesses, goods and case team. Today, from Rewari to Narnaul highway, near village Padla, ) SD/-INSP ANIL KUMAR HSNCB UNIT REWARI DT. 23.04.24 AT. 12.10 PM ”.*

3. Learned counsel for the petitioner contends that the allegations levelled against the present petitioner are totally vague and unfounded. The alleged recovery had been planted on the present petitioner and his co-accused and nothing was recovered from his personal search. He further contends that there was non-compliance

of mandatory provisions of the NDPS Act and no independent witness was joined by the police at the time of the alleged recovery. The petitioner was arrested in the present case on 23.04.2024 and the challan has already been presented against him.

4. On the other hand, learned State counsel has submitted that the petitioner was involved in a serious crime and 282.11 grams of heroin was recovered from the present petitioner and his co-accused Dinesh @ Mota. Even, the search and seizure were conducted by following the mandatory provisions of the NDPS Act. Learned State counsel further submits that the petitioner is hardened criminal and was also involved in case FIR No. 302 dated 23.06.2018 under Sections 323, 452, 506 and 34 IPC, Police Station City Narnaul, District Mahendergarh. He further contends that the first bail application filed by the petitioner was withdrawn by him on 19.03.2025 and within a short period of about one month, the second petition for grant of bail has been filed by the petitioner without any change of circumstances. Thus, the present petition is not maintainable before this Court and is liable to be dismissed.

5. I have heard learned counsel for the parties and perused the record.

6. In the present case, 282.11 grams of heroin was recovered from the present petitioner and his co-accused Dinesh @ Mota, who were having the contraband in their possession without any permit or licence. Even, the said recovery falls within the ambit

of the definition of “commercial quantity” and the provisions of Section 37 of the NDPS Act would apply to the facts of the present case. Still further, at this stage, this Court is also of the view that the petitioner has failed to point out any violation of the mandatory provisions of the NDPS Act. Still further, the first bail application of the present petitioner was withdrawn on 19.03.2025, i.e., about 4 weeks ago and there was no change of circumstances in the present case. Thus, the second bail petition filed by the petitioner, on the basis of the same facts and circumstances of the case, is held to be not maintainable and is liable to be dismissed by this Court.

7. Dismissed.

8. The above observations have been made only for the limited purpose of disposal of the present bail application and shall not be construed as an expression of opinion on the merits of the case.

29.04.2025

amit rana

(N.S.SHEKHAWAT)

JUDGE

Whether reasoned/speaking : Yes/No  
Whether reportable : Yes/No