

2025.PHHC:056731



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

**CRM-M-22168-2025
DECIDED ON: 01.05.2025**

SUNITA ALIAS SEETO**.....PETITIONER****VERSUS****STATE OF HARYANA****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

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

Ms. Mayuri Lakhanpal Kalia, DAG Haryana

SANDEEP MOUDGIL, J (ORAL)**1. Prayer**

This petition has been filed under Section 483 of BNSS, 2023 grant of regular bail in FIR No. 159 dated 07.06.2024 (P-1) under Sections 20, 29 of NDPS Act, 1985 registered at Police Station Safidon, District Jind.

2. Facts

Facts as narrated in the FIR reads as under:-

“To, SHO, Police Station Sadar Safido, Jai Hind. Today I ASI alongwith ASI Jaibir Singh No. 197, EASI Major Singh No. 30, EHC Sonu Kumar No. 797, C. Sonu Singh No. 1247, L/C. Parul No. 1273 in Government Vehicle No. HR-31GV-6378 Driver C. Surendra Kumar No. 1309 alongwith personal laptop with printer were present

for Prevention of Crime Village Sarfabad then a secrete informer came present and informed I ASI that Vinod son of Raja son of Manful and Pinki wife Subhash son of Shishpal Vasiyan Arya Nagar Ward No. 16 Gohana District Sonipat were coming towards Sarfabad via Aichran Kalan from Gohana if sudden barricading is done then narcotic substance Charas (Sulfa) can be recovered from them as the information was believable at about the notice at 06.05 PM information was sent to the police station Sadar Safidon through EHC Sonu Kumar No. 797 in the service of higher officials for necessary action and information Section 42 NDPS Act and after informing the fellow employees about the information, as per the informant barricading was installed the road between Sarafabad to Aichran Kalan. after some time, a young boy riding on a motorcycle from the side of village Aichran Kalan and a woman sitting behind were seen, whom I signaled to stop the motorcycle when I came closer, then the young boy stopped the motorcycle and tried to run away by turning back, whom with the help of fellow employees, the ASI overpowered himself and fellow employees. When asked the name and address by giving complete information about the name and post, the motorcycle driver told his name Vinod son Raja son Manphool resident Arya Nagar Ward No. 16 Gohana District Sonipat and the woman sitting behind told her name and Pinky wife Subhash son Shishpal resident Arya Nagar Ward No. 16 Gohana District Sonipat, who is a young man named Vinod sitting in front of the motorcycle behind which the woman named Pinky is sitting. Who is holding a plastic bag with both hands. On which the I ASI prepared a notice under Section 50 NDPS Act separately and gave it to the said Vinod and read and explained, that I am ASI Kamal Singh Incharge Crime Branch Safidon you Vinod son of Raja son of Manphool resident of Arya Nagar Ward No. 16 Gohana District Sonipat do here by severed with notice under Section 50 NDPS Act that I have suspicion that you have some narcotic substance charas (sulfa) in your motorcycle and You have legal right under the NDPS Act that if you want to get yourself and your motorcycle searched in front of a

magistrate or a gazetted officer, then they can be called on the spot. The notice was signed by Vinod and the witness. Then the said Vinod got his reply notice written and lodged that I am Vinod son of Raja son of Manphool, resident of Arya Nagar, Ward No. 16, Gohana, District Sonipat, I have heard and understood the notice given by you under Section 50 NDPS Act. I want to search myself and my motorcycle with the Duty Magistrate/gazette officer, a gazetted officer should be called on the spot. The reply notice was signed by Vinod and the witness. Then I ASI prepared a notice under Section 50 NDPS Act separately and gave it to the said Pinki and read and explained that I am ASI Kamal Singh Incharge Crime Branch Safidon you Pinki wife Subhash son of Shishpal resident of Arya Nagar Ward No. 16 Gohana District Sonipat Bajaria notice under Section 50 NDPS Act that I have suspicion narcotic substance in the bag hold with you and you have legal right under the NDPS Act that if you want to search yourself and your bag in front of a magistrate or a gazetted officer, then they should be called on the spot. On the notice, Pinky put the thumb of his right hand and the witness put his signatures. Then Pinky said her reply notice and got the complaint lodged that I am Pinky wife Subhash son of Shishpal resident of Arya Nagar Ward No. 16 Gohana District Sonipat I have heard and understood the notice given by you under Section 50 NDPS Act. I searched myself and my bag with the Duty Magistrate. I want to get it done in front of a gazetted officer, should be called on the spot. On the reply notice, Pinky put the thumb of his right hand and the witness put his signatures. In the order issued by the Deputy Commissioner Jind regarding the recovery of narcotic substance, the office of the Deputy Commissioner Jind, on the duty of Shri Balram Jakhar, Naib Tehsildar Jind, the ASI contacted Shri Balram Jakhar, Naib Tehsildar Jind on mobile number 96505-55927 at 06.55 PM from his mobile number 88140-11593 and apprised about the situation and requested to reach the spot and about 3-4 persons coming to the spot He stopped them and requested them to witness the opportunity, who left the spot without revealing their names. At 07.30 PM, EHC Sonu

Kumar No. 797 Filed Report No. 13 dated 07.06.2024 from Police Station Sadar Safidon and severed the notice to the ASI which was kept. Later at 10.00 PM, Shri Balram Jakhar, Naib Tehsildar Jind reached the spot in his vehicle, to whom the ASI presented a reply notice in 50 NDPS Act. The notice which is Section 50 NDPS Act and the reply notice under Section 50 NDPS Act has been seen by the Duty Magistrate. The Duty Magistrate Sahab introduced himself to the above Vinod and Pinky that I have reached the spot as Mr. Balram Jakhar, Naib Tehsildar Jind as Duty Magistrate or Vinod and Pinky aforesaid after interrogation expressed their consent to their search. Then as per the instructions of the Duty Magistrate Sahib, the ASI searched the said and his motorcycle No. HR-11Q-3767 Mark Splendor Plus Color Black, whose chassis number MBLHAW230R9A11778 and Engine No. HA11E8R9A14216 were conducted as per rules. After that, the lady constable Parul No. 1273 conducted a search regarding narcotics of Pinky wife Subhash son of Shishpal resident of Arya Nagar Ward No. 16, Gohana District Sonipat as per rules, during the search, Pinky recovered the intoxicant Charas (Sulfa) inside the blue and yellow color plastic bag on which "Soprano Mozzarella Cheese" was written by the said Pinki. The recovered charas (sulfa) weighed with an electronic fork and the weight of charas (sulfa) including polythene was 2 kg 200 grams. The recovered charas (sulfa) with polythene was put in the parcel and the seal was used and kept after seal by putting a cloth in the parcel and the sample seal was handed ASI Jaibir Singh No. 197 and the parcel Charas (Sulfa) was kept by the duty magistrate Shri Balram Jakhar, Naib Tehsildar Jind with the seal CH/1 and kept himself after the seal and verified the parcel of Charas (Sulfa). Parcel Charas (Sulfa), Motorcycle Marka Splendor Plus were taken as the cause of the Bajaria, Fard Capture Police. On recovery memo, Vinod and Pinky and digarh the witnesses made their own signature and the duty magistrate Sahib verified the memo. Since Vinod son of Raja son of Manful and Pinki wife Subhash son of Shishpal resident of Arya Nagar Ward No.16 Gohana District Sonipat has committed an

offence under Section 20C-61-85 NDPS Act by keeping a total of 2 kg 200 grams in their possession Charas (Sulfa without permit or license. Therefore, an offence is made out. Sonu Singh no. 1247 is being sent to the police station for registration of case. The case should be registered and the case number should be informed the special report should be sent to the concerned officers in the case and another investigating officers should be sent on the spot for further investigation. Today:- with in area Village Sarfabad SD Kamal Singh ASI Incharge, Crime Branch Safido, Dated 07.06.2024 Time: 11.00 PM.

3. Submissions

On behalf of the Petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case solely on the basis of disclosure statement suffered by the co-accused namely Pinki and Vinod from whom the alleged contraband i.e. 2 kg. 200 grams Charas was recovered and they have stated in their disclosure that they have purchased the said contraband from the present petitioner.

On behalf of the State.

Learned state counsel has produced the custody certificate which is taken on record. According to which the petitioner has suffered incarceration only for a period of 10 months and 11 days, as of now. She prays for dismissal of the present petition stating that the petitioner is also involved in two other cases of similar nature and in one another FIR registered under IPC, meaning thereby, she is a habitual offender and there is every possibility of reoffending in case she is enlarged on bail.

Heard learned counsel for the respective parties at length.

4. *Analysis*

This Court is mindful of the well-established principle that, as a general rule, the grant of bail is the norm, and incarceration is the exception. Nonetheless, it is equally recognized that the discretion to grant or refuse bail is a significant judicial power that must be exercised judiciously and with due care. When deciding a bail application whether for pre-arrest or regular bail the Court is required to form a prima facie opinion as to whether reasonable grounds exist to substantiate the allegations, or whether the accusations appear frivolous, vexatious, or intended to harass, humiliate, or falsely implicate the applicant. Such an assessment must be made within the framework of well-settled legal principles and self-imposed judicial restraints that guide the exercise of discretion in bail matters.

An additional concern that warrants this Court's attention is the recurring pattern in cases under Section 29 of the NDPS Act, where accused persons often contend that they were neither present at the location of recovery nor found in conscious possession of any contraband. Such a defence is frequently used to obtain bail. However, this practice raises significant concern, as persons prosecuted under Section 29 are often the principal conspirators the individuals who conceptualize, coordinate, and direct drug trafficking activities from behind the scenes. They often operate through intermediaries who are eventually apprehended with physical possession of the contraband, thereby insulating themselves from direct exposure.

In such circumstances, this Court is of the considered opinion that the absence of physical recovery from such accused cannot, in itself, justify leniency. Those who mastermind and facilitate drug trafficking operations from a distance must be held equally accountable under the law.

Furthermore, it must be emphasized that drug trafficking constitutes a grave threat to both public health and national security. While drug addiction undermines the moral and physical well-being of individuals, drug trafficking strikes at the very foundation of a nation's economic and social order. The illicit profits generated from such activities are often channeled into other forms of organized crime, including terrorism and money laundering.

The impact of narcotic substances on individuals is devastating and well documented. Victims of drug abuse often suffer irreversible harm to their physical, mental, and emotional faculties, leading to a complete breakdown of normal human functioning. The human values and higher faculties that define individual dignity and purpose are often the first casualties of drug dependence. The legislative intent behind the NDPS Act reflects a conscious and determined effort to safeguard society from the far-reaching and destructive consequences of drug abuse and trafficking. Therefore, courts must remain vigilant and responsive to this legislative concern while adjudicating bail matters under the Act.

From the facts of the present case, it is evident that the petitioner has been named on the basis of disclosure statements made by co-accused Vinod and Pinki, from whom a recovery of 2 kg 200 grams of Charas was effected. In their statements, the co-accused specifically disclosed that the said contraband had been procured from the present petitioner. The quantity involved falls within the definition of *commercial quantity*, thereby attracting the rigours of Section 37 of the NDPS Act. Additionally, the petitioner is found to be involved in three other criminal cases, two of which pertain to offences of a similar nature under the NDPS Act, while one is registered under the Indian Penal Code. This background indicates a pattern of criminal conduct and gives rise to a strong apprehension of

reoffending in the event of release on bail. Moreover, several key prosecution witnesses are yet to be examined, and the period of custody undergone by the petitioner thus far is comparatively brief. Considering the totality of circumstances, this Court does not find any justifiable ground to extend the benefit of regular bail to the petitioner at this stage.

5. Conclusion

Keeping in view the afore-said facts and circumstances and nature of averments, the petitioner does not deserve the concession of regular bail, hence, the same is hereby dismissed.

However, it is made clear that the observations made herein above shall have no bearing in the mind of the trial court while adjudicating the matter in accordance with law.

(SANDEEP MOUDGIL)
JUDGE

01.05.2025
anuradha (a)

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