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2025:PHHC:051007



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

**CRM-M-20729-2025
DECIDED ON: 22.04.2025**

GURCHARAN SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Savita Sisodia, Advocate and
Mr. Manjinder Singh Brar, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.53, dated 02.04.2025, under Sections 18(B) of NDPS Act and Section 29 of NDPS added later vide Rapat No.15 dated 05.04.2025, registered at Police Station Sadar Shri Muktsar Sahib, Punjab (Annexure P-1).

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

“Station House Officer (SHO), Police Station Sadar, Sri Muktsar Sahib "Fateh"-Today I, SI along with Ct Nishan Singh No. 1434/SMS, Ct Maninder Singh No. 231/SMS, Senior Constable Gurinderpal Singh No. 1474/SMS, and Senior Constable Inderpreet Singh No. 1382/SMS, accompanied by a laptop-

printer and traveling in official vehicle Bolero No. PB-30R-5890, the driver of which was Constable Khushbalwinder Singh No. 504/SMS, were on patrolling and checking duty for suspicious individuals and vehicles in the area of Sri Muktsar Sahib-Bathinda Road. When the police party reached approximately 50 meters ahead of Mahindra Agency towards Bathinda side on Bathinda Road, Sri Muktsar Sahib, two clean-shaven young men were seen standing on the left-hand side of the road amidst pebbles and bushes, on a black motorcycle, with a white plastic bag placed on the seat, appearing to contain something. They were conversing with one another. Upon noticing the police party, both individuals became visibly nervous and began trying to conceal the white plastic bag in a suspicious manner. Due to the suspicious behavior, I SI instructed the vehicle to stop and, with the help of my fellow officials, both young men were apprehended. On the seat of their black-colored motorcycle, bearing registration number PB-30AB-2202, make HF- Deluxe, a white plastic bag was found, which appeared to contain some substance. I, then individually asked both apprehended young men their names and addresses: The first young man identified himself as Jatinderpal Singh alias Babbu, son of Ajmer Singh, son of Prem Singh, resident of House No. 2191, Street No. 5, Adarsh Nagar, Sri Muktsar Sahib. The second young man identified himself as Kuldeep Kumar, son of Surinder Kumar, son of Nand Lal, resident of House No. 380, Street No. 6, Adarsh Nagar, Sri Muktsar Sahib. Thereupon, I, Baljinder Singh No. 890/SMS, presently posted at CIA Staff-2, Malout, introduced myself by name, rank, and posting, and informed both individuals as follows: "I, Baljinder Singh, have reason to suspect that the white plastic bag placed on the seat of your motorcycle contains intoxicating substances. Therefore, a search of your person, the motorcycle in your possession, and the white plastic bag thereon needs to be conducted. However, under the law governing narcotic substances, you have the legal right to demand that such

search be conducted either before a Hon'ble Magistrate or a Gazetted Officer. Such officer can be called to this place, or you may be taken before such officer in the same condition for the purpose of conducting the search. "Upon this, Jatinderpal Singh alias Babbu and Kuldeep Kumar, both individually stated that, "We wish to have the search of ourselves, our motorcycle in possession, and the white plastic bag in our possession conducted before a Gazetted Officer. "Thereupon, I SI, prepared separate notices under Section 50 of the NDPS Act for both individuals. Jatinderpal Singh and Kuldeep Kumar signed their respective notices. CT Nishan Singh No. 1434/SMS and CT Maninder Singh No. 231/SMS also signed the notices as witnesses. Thereafter, I SI, using my mobile number 98553-63882, placed a call to Sh. Ramanpreet Singh Gill, Deputy Superintendent of Police (D.S.P), Sri Muktsar Sahib, on his mobile number 98170-00089, requesting him to kindly arrive at the spot. After a short while, Sh. Ramanpreet Singh Gill, PPS, Deputy Superintendent of Police, Sri Muktsar Sahib, arrived at the location in an official Bolero vehicle along with his gunman. At the site, I briefed the Deputy Superintendent of Police regarding the situation. I then handed over my mobile phone to Senior Constable Gurinderpal Singh No. 1474/SMS, instructing him to record the proceedings via the E-Saksha App for videography purposes. Deputy Superintendent of Police, Sri Muktsar Sahib, then introduced himself by name, rank, and posting to Jatinderpal Singh alias Babbu and Kuldeep Kumar, and stated the following:"I am Ramanpreet Singh Gill, PPS, posted as Deputy Superintendent of Police, Sri Muktsar Sahib, and a Gazetted Officer of the Government of Punjab. I suspect that you may be in possession of narcotic substances. Therefore, a search of your person, your motorcycle, and the white plastic bag placed on the seat of your motorcycle is to be conducted. However, as per law, you have the right to get the search conducted either before a Magistrate or another Gazetted Officer. "To this, both individuals responded

separately as follows: "We have full faith in you; therefore, you may yourself conduct the search of us, our motorcycle, and the white plastic bag in our possession. "Upon this, the Deputy Superintendent of Police, Sri Muktsar Sahib, prepared separate notices under Section 50 of the NDPS Act for Jatinderpal Singh alias Babbu and Kuldeep Kumar. Both individuals signed their respective notices. I SI, CT Nishan Singh No.1434/SMS, and CT Maninder Singh No. 231/SMS also signed the notices as witnesses. Before conducting the search, the Deputy Superintendent of Police, Sri Muktsar Sahib, made an effort to include a public witness in the search party; however, no one was willing to join. Thereafter, as per the instructions of the Deputy Superintendent of Police, Sri Muktsar Sahib, I SI opened and checked the white plastic bag placed on the seat of the motorcycle belonging to Jatinderpal Singh alias Babbu and Kuldeep Kumar. On opening the same, one transparent polythene packet containing opium was recovered. The packet was weighed on a digital scale, including the white plastic bag and the transparent polythene packet, and it was found to weigh 3 kilograms and 208 grams. The recovered contraband was sealed in the same white plastic bag and a sealed parcel was prepared. Then, in accordance with the directions of the Deputy Superintendent of Police, Sri Muktsar Sahib, I conducted the personal search of the accused Jatinderpal Singh and Kuldeep Kumar, from whom no other objectionable item was recovered. Separate personal search memos were prepared, and the accused signed their respective personal search memos. CT Nishan Singh No. 1434/SMS and CT Maninder Singh No. 231/SMS signed as witnesses on the said personal search memos, which were authenticated by the Deputy Superintendent of Police, Sri Muktsar Sahib. The sealed parcel containing opium was sealed by me with my seal bearing the inscription "BS", and a sample seal was also prepared. The seal, after use, was handed over to CT Nishan Singh No. 1434/SMS. The said sealed parcel was then

further sealed and authenticated by Deputy Superintendent of Police, Sri Muktsar Sahib, with his seal bearing the inscription "RS". The sample seal was also signed and sealed by him and retained in his custody for future reference. Senior Constable Gurinderpal Singh No. 1474/SMS submitted a certificate under Section 63(4) (C) of the BSA regarding the videography conducted at the spot. I SI took into police possession through a recovery memo, the following: The sealed parcel containing 3 kilograms and 208 grams of opium, sealed with seals bearing BS + RS, Motorcycle bearing registration number PB-30AB-2202, make HF- Deluxe, color black, The certificate under Section 63(4)(C) BSA. The accused Jatinderpal Singh alias Babbu and Kuldeep Kumar signed the recovery memo, and so did CT Nishan Singh No. 1434/SMS and CT Maninder Singh No. 231/SMS as witnesses. The recovery memo was authenticated by the Deputy Superintendent of Police, Sri Muktsar Sahib. The accused Jatinderpal Singh alias Babbu and Kuldeep Kumar did not produce any license or permit in respect of the possession of 3 kilograms and 208 grams of opium. Thus, having committed an offence under Section 18(B)/61/85 of the NDPS Act, a ruqqa was got typed through CT Nishan Singh No. 1434/SMS on the laptop and printed out. The said ruqqa, against accused Jatinderpal Singh alias Babbu and Kuldeep Kumar for the above said offence, was sent through Senior Constable Inderpreet Singh No. 1382/SMS to the Police Station for registration of the FIR. The concerned police station was directed to inform the FIR number upon registration. The Incharge, PCR- SMS, was informed through wireless message. Special reports were ordered to be issued. I SI along with accompanying officials, remain engaged in the investigation at the spot. Sd/- Baljinder Singh, ASI, C.I.A. Staff-2, Malout, Dated: 02.04.2025 Place: Outskirts of Village Sangudhaun Time: 06:45 PM Today, upon receipt of the aforesaid ruqqa at the police station, the FIR as mentioned above was registered in the concerned register under the mentioned

sections. The original ruqqa and copy of the FIR are being sent by hand through Senior Constable to assigned ASI at the spot for investigation.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case solely on the basis of the disclosure statement made by co-accused namely Jatinderpal Singh @ Babbu. It is submitted that Jatinderpal Singh @ Babbu is employed as a clerk with a practicing advocate, Shri Ashok Kumar Girdhar, at Sri Muktsar Sahib. A criminal complaint under Section 138 of the Negotiable Instruments Act has been filed by Kushaldeep Singh, the real brother of the petitioner, through the above-mentioned advocate, and the said complaint is presently pending before the Court of the Learned Chief Judicial Magistrate.

He further submits that the petitioner being brother used to pursue the above-said complaint and on the date of hearing, he scolded the co-accused Jatinderpal Singh @ Babbu on seeing him talking with the opposite party of the aforesaid complaint. It is alleged that, due to this personal grudge, Jatinderpal Singh @ Babbu may have intentionally and falsely named the petitioner in the present case with the aim of malicious implication. It is further submitted that the petitioner has no connection whatsoever with the alleged recovery in the present matter and that he is an agriculturist by profession.

Notice of motion.

On behalf of the State/complainant

On the asking of Court, Mr. Jastej Singh, DAG Punjab, accepts notice on behalf of respondent/State. He prays for dismissal of the present

petition stating that recovery of contraband i.e., 3.208 kg of opium was effected, therefore, rigour of Section 37 of NDPS Act would be attracted in this case, thus custodial interrogation of the petitioner is required to ascertain the entire facts of the case.

4. **Analysis**

Be that as it may, having given a considerable thought to the submissions made hereinabove especially to the fact that except disclosure statement of co-accused Jatinderpal Singh @ Babbu no incriminating material has been put forth by the prosecution to connect the petitioner with the alleged contraband. Also, admittedly the recovery of contraband i.e., 3.208 kg of opium was effected from the co-accused Jatinder Pal Singh, therefore, this Court is of the considered view that there is no valid or cogent reason to deny the bail to the present petitioner, wherein he has *bona fide* intentions and is ready and willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

5. **Relief:-**

Hence, 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, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

22.04.2025

Meenu

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