



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

CRM-M-20937-2025

Date of decision: 23.05.2025

**KAILASH ALIAS KAILASH CHANDER ALIAS KAILASH CHANDRA
JAT**

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vishesh Bishnoi, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. Instant petition is preferred under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking anticipatory bail in FIR No.337 dated 22.09.2019 under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') (during investigation, Section 18 of NDPS Act was deleted and Sections 18(b), 27-A, 29 of NDPS Act were added), registered at Police Station Bhuna, District Fatehabad.

2. On 28.04.2025, following order was passed:

"Instant petition is preferred under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking anticipatory bail in FIR No.337 dated 22.09.2019 under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') (during investigation, Section 18 of NDPS Act was deleted and Sections 18(b), 27-A, 29 of NDPS Act were added), registered at Police Station Bhuna, District Fatehabad.

Learned counsel for the petitioner, inter alia,



contends that recovery of 02 kgs and 500 grams of opium, falling within the ambit of noncommercial quantity, was effected from co-accused Bhiyan Ram, who named co-accused Deva Ram and he further nominated the petitioner as accused in the FIR (supra) in his disclosure statement recorded during the custodial interrogation. Such disclosure statement has no evidentiary value in the eyes of law, as the same is hit by Section 25 of Indian Evidence Act, 1872 (now Section 23(1)(2) of Bharatiya Sakshya Adhiniyam, 2023). Further, the petitioner is having clean antecedents and is not involved in any other case.

Furthermore, the petitioner is resident of Rajasthan and he was declared proclaimed offender by learned Judicial Magistrate 1st Class, Fatehabad vide order dated 04.12.2023. Thereafter, the petitioner approached this Court seeking setting aside of the said order by way of filing CRM-M-18947-2025 and vide order dated 05.04.2025 (Annexure P-2), this Court stayed operation of the order dated 04.12.2023.

Notice of motion for 23.05.2025.

Keeping in view the ratio of law enunciated by the Hon'ble Supreme Court in Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833, the petitioner is directed to appear before Investigating Officer within a period of two weeks from today and thereafter, as directed by the Investigating Officer.

In the event of arrest, the petitioner will be admitted to interim anticipatory bail on furnishing bail/surety bonds to the satisfaction of Investigating/Arresting Officer. The petitioner shall cooperate with the investigation/Arresting Officer and abide by the conditions as provided under Section 482(2) of BNSS (erstwhile Section 438(2) of the Code of Criminal Procedure, 1973).



If the Arresting Officer does not permit the petitioner to join the investigation, he would appear before learned Illaqa Magistrate, who would then summon the Arresting Officer and direct him to join the petitioner in the investigation, in terms of the order of this Court.

Nothing observed hereinabove shall be construed as an expression of opinion by this Court and learned trial Court shall decide the case on its own merits, strictly in accordance with law.”

3. Learned State counsel, on instructions from SI Ravinder, submits that in compliance of order dated 28.04.2025 passed by this Court, the petitioner has joined the investigation and is not required for further custodial interrogation.

4. Keeping in view the statement made by learned State Counsel, the order dated 25.04.2025, is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 482(2) BNSS, 2023 (*Erstwhile Section 438(2) Cr.P.C.*)

5. The petition is accordingly disposed of.

6. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

May 23, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No