



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

229

CRM-M-25500-2025
DATE OF DECISION: 15.05.2025

SULAKHAN SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Kamal Narula, Advocate for the petitioner(s).
Mr. Rajiv Verma, Sr. DAG, Punjab.

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

This petition has been filed under Section 483 of BNSS for grant of concession of regular bail to the petitioner in case FIR No.109 Dated 20.07.2024 under Section 21 of the NDPS Act (Annexure P-1), registered at Police Station City Jalalabad, District Fazilka.

2. Prosecution story set up in the present case as per the version in the FIR reads as under :-

‘ SHO, Sir, One written information was from ASI Tarshem Singh STF Bathinda, Constable Charanjit Singh No.968/SMS regarding some intoxicant tablets was recovered at Police Station. Regarding that rapat No.48 dated 20.07.2024 registered and sent by the SHO to I ASI alongwith ASI Bhagwan Singh No.13/FZK, Senior Constable Naresh Singh 1207/FZK,



PHG Darshan Singh No.12409 on a government vehicle bearing No. PB65BG-6367 to whom SC Seeshpal No.803/FZK was driven, alongwith laptop, printer going towards the side of Jalalabad, Mukatsar Road near Dream Villa Palace. On that I ASI alongwith the above said companion reached at the Dream Villa Palace at Jalalabad Mukatsar road where ASI Tarshem Singh alongwith C-II Navdeep Singh 941/SMS, SC Paramjit Singh No.1050/SMS has stopped one Honda Scooty in which one black colour bag was hand with handle alongwith one Gentleman. On that I ASI enquired from ASI Tarshem Singh who has introduced me with the situation. Then I ASI has free the ASI Tarshem Singh party from the spot. Then I ASI enquired about name and address of the above said person who had disclosed his name as Sulakhan Singh son of Hardeep Singh resident of Fattuwalla, Police Station Sadar Jalalabad. Then I ASI has introduced myself and tell him that I ASI Bishan Ram No.390/FZK, Police Station City Jalalabad and posted as a Investigating Officer. I and my all companion has worn their uniform as per their designation and also the name plats are attached. I have suspected some intoxicants in your scooter, which is without number and also the black color polythene bag which is hang. So, the search of your scooter without number and black color polythene bag be conducted but you have a legal right under the NDPS Act that you may conduct the search of your scooter and black color polythene bag which is hanged, from some Gazetted Officer or Magistrate, who be requested to came at the spot. On that above said Sulakhan Singh after time told You me that I have may search of my thinking some confident upon you. scooter and black color polythene bag. On that I ASI prepared separate memo under Section 50 of NDPS Act and witnesses gave witness and above said Sulakhan Singh gave signatures in Punjabi. Before start search tried to implead the public witness but due to late hours everyone showing their inability. Then I ASI in the presence of witnesses check the black color polythene bag which is hanged with the scooter after open



it, in which one transparent polythene bag, in which heroin is clearly seen, which opened, where heroin is recovered. The recovered heroin alongwith the transparent polythene bag weighing by I ASI upon the small computerized weighing machine, which is found as 149 grams of heroin, which put into separate bag and prepared a parcel. Recovered parcel sealed by me with my stamp seal bearing word B.R. and sample seal prepared separate parcel. Stamp after use handed over to ASI Bhagwan Singh No.13/FZK. Search of above said Sulakhan Singh is conducted, from the pocket of his screen mobile touch without shirt one any making, sky color is recovered and the same is put into bag and prepared separate parcel and scooter without number mark Honda black color and recovered parcel seal with stamp seal bearing word BR were taken into police custody. So above said Sulakhan Singh doing offence under Section 21/61/85 of NDPS Act for possession of heroin as 149 gram. On that I ASI prepared ruga against Sulakhan Singh and sent though PHG Darshan Singh NO.12409 at Police Station. Let be informed of the number of case after registration. Special reports be prepared and sent to the police official. PCR/FZK is informed. Report under Section 42 of NDPS Act is prepared separate and sent to the higher officials.'

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner submits that, according to the allegations, 149 grams of heroin were allegedly recovered from the petitioner, which falls under the category of non-commercial quantity. It is further contended that the alleged contraband was recovered from a polythene bag hanging on the scooter which is highly improbable. Counsel also argues that the police failed to comply with the mandatory provisions of Sections 42 and 50 of the NDPS Act, and no independent witness was associated with the recovery proceedings.

**On behalf of the State**

The learned State counsel has submitted the custody certificate of the petitioner, which is taken on record. He contends that although the recovery effected in the present case is non-commercial in nature, but the petitioner is a habitual offender and has been convicted in FIR No. 11 dated 01.06.2012 registered at P.S. SSOC, Amritsar involving heavy commercial quantity i.e. 1 kg. and 600 grams of Heroin, hence, the petitioner is not entitled to regular bail at this stage.

4. Analysis and conclusion

This court is conscious that generally in everyday terms, the principle of law dictates that bail is the general rule, while jail is the exception. However, this Court acknowledges that the power to grant or deny bail is extraordinary and must be exercised with caution. It is well-established that when considering a bail application (whether pre-arrest or regular bail), the Court must form a prima facie opinion as to whether reasonable grounds exist to support the accusation, or if the accusation is frivolous and baseless possibly made with the intention of harming or humiliating the individual, or falsely implicating them in the crime. This evaluation must be conducted in the light of self-imposed restrictions and the broader legal parameters outlined.

With deep concern, this court has time and again pointed out the clandestine smuggling of narcotic drugs and psychotropic substances in the State of Punjab which have led to drug addiction among sizeable section of the public, particularly adolescents and students and this menace has assumed serious and alarming proportion in the recent times.



This rising concern needs an efficacious solution. To effectively address the drug menace, the concerned State Government should develop integrated policies that addresses the root cause of drug abuse, incorporating health, education and social welfare sectors. A glimpse at Article 47 of the Constitution of India (One of the Directive based on Socialistic Principles) makes it ample clear that it is the for the state to look into the improvement of public health and the prohibition of harmful substances. Also, the porous borders, high demand for drugs and evolving smuggling tactics demands constant vigilance and adaptation from the police and other law enforcement agencies.

Considering the merits of the present case, it is noted that the petitioner was found in possession of 149 grams of heroin. However, the petitioner's conduct is far from satisfactory, as evidenced by his criminal history, which includes involvement in two other cases. Notably, in one such case, he has already been convicted following the substantial recovery of 1 kg and 600 grams of heroin. This pattern of behaviour raises significant concerns regarding the petitioner's propensity to reoffend. There exists a real and tangible risk that, if released on bail, the petitioner may once again engage in similar unlawful activities. Granting bail at this juncture could inadvertently signal approval or encouragement of such illicit conduct.

6. **Conclusion**

In the light of above discussions made and the modus operandi of the kingpins engaged in illicit activities, whether trafficking in small or intermediate quantities, must be met with

unwavering resolve and stringent action. The intent of the legislature and the sanctity of the rule of law must be upheld at all costs, and cannot be allowed to be undermined, regardless of the quantity involved.

Hence, the same stands dismissed with no order as to costs.

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

15.05.2025
anuradha (a)

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