

2025:PHHC:070747



102 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25624-2025
DECIDED ON: 16.05.2025

AHTSAMULHAQ @ BHURA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Ms. Monita Mehta, Advocate
for the petitioner.

SANDEEP MOUDGIL, J

1. Relief Sought

This petition has been filed by the petitioner under Section 482 of BNSS, 2023 seeking anticipatory bail to the petitioner in case FIR No. 96, dated 24.10.2024, under Sections 21 & 25 of Narcotics Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'NDPS Act'), Section 29 of NDPS Act, 1985 added later on) registered at Police Station PAU, Ludhiana.

2. Facts

The prosecution story as set up in the present FIR reads as under:-

“SHO Sahib P.S PAU, Ludhiana. "Jai Hind" Today I SI along with ASI Kamaljit Singh 649, ASI Amrik Singh No.2342, HC Bhupinder Jaggi 2087, HC Damanpreet Singh No.1571, HC Ashwani Kumar No.2130, CT Angadveer Singh 165, PHG Rajinder Singh 25768 were riding in a government vehicle with number PB-65- BG-5887 whose driver is Ct Gurjit Singh No.967 regarding the patrolling and checking for suspicious persons and suspicious vehicles and drug smugglers were present under the flyover village Malakpur Hambra Road Ludhiana regarding barricading. Then I SI received secret information at around 11:30 AM that Kuldeep Singh son of Raj Singh resident of Haibowal Kalan, Ludhiana and Deepak Sharma S/O Mahinder Kumar R/O Salem Tabri, Ludhiana who supply heavy quantity of intoxicant tablets, capsules and injections illegal in the city. Even today, the above said

both of them are riding a scooter Jupiter colour grey numbered PB-10-JJ-3767 coming from South City side via Prevela uninhabited colony from Hambra road to Ludhiana city to supply. On which the information being firm and reliable, the road coming from South City side to Prevela has been blocked with solid nakabandi. The fellow employees were properly instructed, then the time must be around 1.00 PM that according to the information, two young men on a scooter brand Jupiter with number PB-10-JJ-3767 were seen coming from the road South City to Prevela. That after seeing the nakabandi of the police party they stopped the scooter in fear and tried to turn back then meanwhile I SI stopped and apprehended them with the help of fellow officials and asked their name and address then the scooter driver gave his name as Deepak Sharma S/O Mahinder Kumar R/O House No. 784, Street No. 1, Ashok Nagar, Salem Tabri, Ludhiana and the person sitting as pillion rider of the scooter gave his name as Kuldeep Singh S/O Raj Singh R/O Village Dhalleana, District Mansa presently R/O Rajan Estate, Street No. 1. Haibowal Kalan, Ludhiana and I SI disclosed my identity to the apprehended scooter driver Deepak Sharma and the pillion rider Kuldeep Singh that, "I am SI Ashwani Kumar No: 736/R/LDH posted at P.S PAU Ludhiana and my name plate is attached on my uniform. I have suspicion on you that you have some suspicious thing or intoxicant material with you. Under section 50 of NDPS Act you have legal right that you can get your search conducted by some Magistrate Sahib or by a Gazetted Officer who can be summoned at the spot without delay. On which Deepak Sharma and Kuldeep Singh said in one voice that, "We want to get our search conducted by some Gazetted Officer, on which I SI wrote separate unconsent memo of accused Deepak Sharma and Kuldeep Singh, On which accused Deepak Sharma and Kuldeep Singh signed their signatures in English and the witnesses found it correct. After that I SI at around 1:25 PM on the spot contacted from mobile phone number 98158-46200 with Gazetted Officer Mr. Mann ACP Sahib West Ludhiana on his mobile phone number 78370-18514, informed about the circumstances and on requesting to arrive at the spot Sh. Gurdev Singh PPS/ACP West Ludhiana along with the gunmen arrived at the spot at about 01.45 PM who according to the rules informed about his identity to the apprehended accused Deepak Sharma and Kuldeep Singh that I am Gurdev Singh PPS Assistant Commissioner of posted at Police West Ludhiana, I am wearing the uniform and name plate is attached. I am a Gazetted Officer of Punjab Government Police Department. I have suspicion on you of having some intoxicant material, under section 50 of NDPS Act you also have a legal right that you can get your search conducted by some Magistrate Sahib or by some Civil Gazetted Officer who can also be summoned on the spot. On which the abovesaid accused Deepak Sharma and Kuldeep Singh said that, "We have trust on you, you can search us. On which Mr. Gurdev Singh PPS/ACP prepared the separate consent memo

statements of accused Deepak Sharma and Kuldeep Singh typed on laptop by Constable Bhupinder Jaggi 2087 and took out a printout and read it to accused Deepak Sharma and Kuldeep Singh. After reading and hearing their consent memo statement and accepted it as correct, signed under their statement in English and was verified by witnesses. Then, as per the instructions of ACP Sahib, I SI tried to include private witnesses to police party before searching the subdued Deepak Sharma and scooter pillion rider Kuldeep Singh, but none of the witnesses was ready. After that the scooter in the possession of above said scooter driver accused Deepak Sharma brand Jupiter numbered PB-10-JJ-3767 a black coloured polythene bag placed in front of his feet, I SI as per the instructions of the ACP Sahib, carried out search in accordance with law, then from the black coloured polythene bag, strips of intoxicant tablets white colour, which on counting, a total of 40 strips of the narcotic tablets brand Tramadol Prolonged Release Tablets IP (one strip 50 tablets) total 2000/narcotic tablets) were recovered. That on each strip of the recovered intoxicant tablets Batch No.PCCKE35, MFG-Date 02/2023 EXPIRY Date 1/2025.The above said Deepak Sharma could not produce any bill clarification about the recovered strips of intoxicant tablets. On which the recovered narcotic tablets being of the same batch and of the same brand I SI sealed the recovered intoxicant tablets in the same black coloured polythene bag along with the cloth bag prepared a parcel. The parcel was sealed by ACP Sahib with his seal impression GS and I SI sealed with my seal impression AK, prepared sample seal separately and ACP Sahib also put his own seal impression on sample seal and verified the sample seal. The above said action has been fulfilled related e-Sakshya APP under section 105 BNSS. After that, I SI on the instructions of ACP Sahib searched the weighted black coloured polythene bag held in the right hand of the pillion rider of the scooter brand Jupiter numbered PB-10-JJ-3767 Kuldeep Singh then from the black coloured polythene bag, a total of 11 boxes of brown coloured intoxicant tablets were found, 10 strips per box and 60 tablets in each strip, on counting total 110 strips total 6600 intoxicant tablets brand Talprazolam Tablets IP 0.5mg Alpcore 0.5 mg Newtech.life science were recovered. The above said Kuldeep Singh could not provide any bill clarification regarding the recovered intoxicant tablets box. As the recovered intoxicant tablets were of the same batch and of the same brand I SI sealed the intoxicant tablets in the same black coloured polythene bag along with the cloth bag prepared a parcel in accordance with directions. The parcel was sealed by ACP Sahib with his seal impression GS and I SI sealed with my seal impression AK, prepared sample seal separately and ACP Sahib also put his seal impression on sample seal and verified the sample seal. The above said action was fulfilled related e-Sakshya APP under section 105 BNSS. After that I handed over my seal after use to ASI Kanwaljit Singh 649 and ACP Sahib kept his seal after use with himself. I SI took the recovered two recovered parcels of intoxicant

tablets covered with cloth with seal impressions along with the sample seal as evidence in police possession vide separate memos and scooter brand Jupiter number PB-10-JJ-3767 without documents in the possession of accused was taken into police possession vide separate memo. Memo was attested by the witnesses. Recovery memos were completed and ACP Sahib and ASI Kanwaljeet Singh 649 attested the memos as witness. The accused Deepak Sharma and Kuldeep Singh have committed the crime of 22-61-85 NDPS ACT by keeping the intoxicant tablets in their possession. After recording the ruqa it is being sent by hand through HC Ashwani Kumar No.2130 for registering an FIR. After registration of FIR, the number of the FIR should be informed and special reports should be issued. I SI along with ACP Sahib and fellow officials engaged in investigation at the spot. Verified/ Ashwani SI Police Station PAU Ludhiana dated 24- 10- 2024 Today in the area: On the way from South City to Prevela Uninhabited Colony, Ludhiana AT: 02:50 PM Today at Police Station after receiving the above said ruqa, a FIR was registered against the above said accused Deepak Sharma and Kuldeep Singh. The original ruqa with copy of the FIR is being sent before SI who is engaged in investigation at the spot by the hand of Constable. After issuing special reports are being sent in the service of Honorable Illaqa Magistrate Sahib and senior officials by hand through SC Amandeep Dhariwal No.2283/Ludh. The control room has been notified. Complete Rapat No.21 AT:- 04.24 PM.”

3. **Submissions**

On behalf of the Petitioner

Learned counsel for the petitioner contends that the petitioner has not been named in the FIR and was nominated as an accused on the basis of disclosure statement of co-accused. She further contends that in the present case no recovery has been effected from the conscious possession of the petitioner, therefore, his custodial interrogation is not necessary.

Notice of motion.

At the asking of Court, Mr. Jastej Singh, Addl. AG, Punjab, appearing on advance notice, accepts the same on behalf of respondent-State of Punjab.

On behalf of the State.

Learned State counsel has prayed for dismissal of the present petition stating that in the present case the co-accused namely Deepak Sharma and Kuldeep

Singh were apprehended and 2000 intoxicating tablets of Tramadol Prolonged Release IP were recovered from their possession. Further, 900 ampoules make Pentazocine Lactate, 7200 Capsules make Acetaminophen Tramadol and 750 ampoules make Tramadol Hydrochloride were recovered on the disclosure of Kuldeep Singh. The quantity recovered from the accused falls under the commercial quantity.

Heard learned counsel for the respective parties at length.

5. **Analysis**

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.

An additional aspect that must be considered by this court is the frequent practice where individuals are implicated under Section 29 of the NDPS Act assert that they were neither present at the scene nor had any contraband in their conscious possession. Taking advantage of this defense, many such accused persons are granted bail. However, this practice needs to be addressed, as individuals targeted under Section 29 are often the primary masterminds behind the drug trafficking networks, orchestrating operations from a distance while using others, typically those found in direct possession of the drugs, as scapegoats.

Consequently, the court is of the firm opinion that in such cases, these individuals should be held equally accountable and should not be afforded any leniency.

Furthermore, the drug is a social malady, while drug addiction eats into the vitals of the society whereas drug trafficking not only eats into the vitals of the economy of a country, but illicit money generated by drug trafficking is often used for illicit activities including encouragement of terrorism. The devastating effects of narcotic drugs on any person who comes to its touch are too well known. Normally, such a person ceases to be a normal human being, and is more or less reduced to zombie living animal existences and rushing fast to meet the maker. Divine qualities of an individual who consumes narcotic drugs disappear and they are the first sacrifices one normally makes while falling prey to use of drugs. Anxiety of legislature is to prevent the adverse affect of such drugs and substances on the society.

As can be culled out from the facts of the present case, the petitioner has been nominated on the basis of disclosure statement suffered by co-accused. There is a specific allegation against the petitioner that he along-with co-accused Munawar Ali used to deal in sale and supply of contraband to co-accused Raman Kumar @ Rinku and Kuldeep Singh. Accordingly, the petitioner has been nominated as an accused in the present case. Further more, the alleged recovery i.e. 2000 intoxicating tablets of Tramadol Prolonged Release IP, 900 ampoules make Pentazocine Lactate, 7200 Capsules make Acetaminophen Tramadol and 750 ampoules make Tramadol Hydrochloride, was effected in the present case, which falls under the ambit of commercial quantity, which attracts Section 37 of NDPS Act.

In the case of “*State of Kerala v. Rajesh*” (2020) 12 SCC 122, the Apex Court reiterated the **rigid bail policy** under Section 37 for commercial quantity cases and emphasized **non-liberal approach** in such matters.

6. Conclusion

In the light of above, discussions made and the *modus operandi* of the kingpins engaged in illicit activities, 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.

Keeping in view the afore-said facts and circumstances and nature of averments, custodial interrogation of the petitioner is necessary to unearth the ramifications involved in the present case as well as to take the investigation to its logical end.

Accordingly, the present petition stands dismissed.

16.05.2025
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(SANDEEP MOUDGIL)
JUDGE

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