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

CRM-M-26797-2025

Date of Decision:21.05.2025

BALKAR SINGH ALIAS POPPY

...PETITIONER

VS.

STATE OF PUNJAB

...RESPONDENT

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. J.K. Singla, Advocate &
Ms. Suman Rani, Advocate
for the petitioner.

Mr. Ravneet Singh Joshi, Deputy, A.G., Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the 2nd petition under Section 483 of BNSS, 2023 with a prayer to grant regular bail to him in case FIR No.06 dated 21.01.2025, registered under Sections 21 & 29 of NDPS Act, 1985 and later on, offence under Section 21-C & 27 were added, Police Station City 2 Mansa, District Mansa.

2. The FIR in the present case was registered on the basis of the statement made by Lakha Singh 05/Mansa, CIA staff Mansa and the same has been reproduced below:-

“Copy of ruqa, SHO Sahib, Police Station City 2 Mansa, Jai Hind, Today, I, S.I. alongwith S.I. Baljinder Singh 277/Mansa, HC Hakam Singh 1107/Mansa, C Avtar Singh 67/Mansa (Civil Dress) were travelling on government vehicle bearing No.PB31-F-5538



driven by C Chhina Ram 594/Mansa departed towards the area of Police Station City 1 Mansa, City 2 Mansa, Sadar Mansa etc. for checking of suspected persons and during search when the police party was traveling from Mansa Khurd to Mansa Kenchiyan through HC Road and when police party reached near college link road going towards back side of Nehru College adjoining with Vishvakarma Bhawan then about 50 Sq. Yards back at College link road, two persons were seen sitting near one motorcycle and who was searching their hands in plastic sack of black colour and who suddenly got perplexed after seeing the vehicle of police party then I, S.I. took the vehicle on the basis of suspicion, stopped and come out and apprehended with the help of colleagues and asked their names and address then upon asking, first person disclosed his name as Babandeep Singh alias Babbu alias Mal Singh Son of Shinda Singh Son of Tehal Singh, resident of Lelewala, Police Station Talwandi Sabo, District Bathinda and whose identification is as under: Aged about 22 years, height 5'-9", fair complexion, clean shave and hair cut, strong and active body, mark of cut on forehead, healthy and upon asking then the second person disclosed his name as Balkar Singh alias Poppy Son of Gurtej Singh Son of Balbir Singh, resident of Lelewala, Police Station Talwandi Sabo, District Bathinda and whose Identification is as under: Aged about 23 years, height 5'-4", fair complexion, clean shave and hair cut and active body, mark of injury on wrist of right arm, healthy. Thereafter, I, S.I. sent C Avtar Singh 76/Mansa to join any private witness and who told after come back about ten minutes that I asked about 8/10 persons to become private witness after disclosing the facts what everyone stated that we cannot give any statement/become witnesses against smugglers because later on, they will cause loss to us and our family. Thereafter, I, S.I. checked the plastic sack of black colour whose mouth was open from the possession of Babandeep Singh alias Babbu and Balkar Singh alias Poppy then one another transparent plastic sack was



recovered from plastic sack out of which Heroine (Chitta) was clearly visible. Thereafter, I, S.I. got conducted the weight of recovered Heroine (Chitta) with Computer weighing machine and same has been found 50 gram along with plastic sack. Thereafter, I, S.I. put recovered Heroine (Chitta) along with transparent plastic sack into same plastic sack of black colour and kept into cloth bag of white colour and prepared the bundle and bundle was duly stamped by me/S.I. vide his stamp word L.S. and sample stamp was prepared separately and after use handed over to S.I. Baljinder Singh 277/Mansa. Thereafter, Motorcycle Splendor of Black Colour bearing No.PB45-A-0263 was checked but no document was found from it. Thereafter, bundle of Heroine (Chitta) along with stamp and sample stamp was taken into police custody vide separate recovery memo and witnesses put their testimony. Babandeep Singh alias Babbu and Balkar Singh alias Poppy has committed the offence under Sections 21/61/85 of NDPS Act by keeping Heroine (Chitta) in their possession. Therefore, ruqa against Babandeep Singh alias Babbu and Balkar Singh alias Poppy under the above said Sections has been sent to Police Station for registration of case through C Avtar Singh 76/Mansa to Police Station City 2 Mansa. Case number be intimated after registration of case. Special reports be issued. PCR Mansa be informed separately. I, S.I. along with colleagues were present on the spot for investigation. Sd/- Lakha Singh 05/Mansa, CIA Staff Mansa, dated 21.01.2025 area Nehru College Link Road Mansa khurd at 06:30 PM”.

3. Learned counsel for the petitioner contends that as per the case set up by the prosecution, the petitioner was arrested, while he was carrying 50 grams of heroin in his conscious possession, without any permit or license. He further contends that the petitioner is in custody since 21.01.2025 and after completion of the investigation, the challan has already been presented against

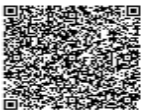


him. He further contends that even the police had not followed the mandatory provisions of NDPS Act, while effecting the search and seizure in the present case. He further contends that the prosecution has relied upon 22 witnesses, but no prosecution witnesses have been examined so far. He further submits that co-accused Babandeep Singh @ Babbu @ Mal Singh has been granted the concession of bail by this Court vide order dated 25.04.2025. Thus, the Trial Court may take considerable time to conclude the trial in the present case.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that on the disclosure statement suffered by the petitioner, Gursewak Singh @ Sewak co-accused, was apprehended by the police and 1 Kg, 700 grams of heroin was recovered from Gursewak Singh @ Sewak along with drug money i.e Rs.5,40,000/-.

5. I have heard the learned counsel for the parties and perused the record carefully.

6. It is undisputed fact that the 50 grams of heroin was recovered from the present petitioner and said quantity falls within the category of “non-commercial quantity”. Thus, the provisions of Section 37 of NDPS Act may not apply in the facts of the present case. The petitioner is stated to be in custody for the last more than 04 months and challan has already been presented against him. Moreover, similarly placed co-accused, Babandeep Singh @ Babbu @ Mal Singh has already been granted the concession of bail by this Court vide order dated 25.04.2025 (Annexure P-2). Thus, the further custody of the petitioner will not serve any useful purpose.



7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

21.05.2025
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(N.S. SHEKHAWAT)
JUDGE

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