

2025.PHHC:069054



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28315-2025
DECIDED ON: 22.05.2025

HANSRAJ MEENA ALIAS HANSRAJ

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ravinder Malik, 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. 326 dated 23.07.2021 u/s 20 of NDPS Act (Section 20 of NDPS Act deleted later on and Section 8 and 15 of NDPS Act added later on) registered at Police Station City Mahendergarh, District Mahendergarh (Annexure P-1).

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

“To the SHO, P.S. City Mahendergarh, 'Jai Hind'. Today, I, SI alongwith ASI Hariprakash No.70, HC Satbir No.639, Ct. Jasbir No.5925, Ct. Yogesh No.95 in Government vehicle bearing No.HR-35-L-5879, driver of which was EHC Dhiraj No.727 was present at Tularam Chowk, Mahendergarh in connection with patrolling and

prevention of crime, where a secret informer came up and informed that a black colour car bearing No.HR-26- BE-2183 is parked in an abandoned condition on the over bridge of Rewasa-Mahendergarh and there is suspicion of having drugs inside. On believing the aforesaid information to be true, I shared this information with accompanying officials and on reaching at the place disclosed by the secret informer, I saw a black colour car bearing No.HR-26-BE-2183 is parked there in abandoned condition and when I looked inside the vehicle, I saw plastic bags filled therein and there is suspicion of having intoxicant substance. Upon which, by apprising aforesaid facts to senior officers via telephone, rapat was lodged in Roznamacha at P.S. City Mahendergarh. Thereafter, Duty Magistrate Sh. Naresh Kumar, Naib Tehsildar came up at the spot and by preparing notice u/s 42 of NDPS Act, same was given to him. Then in the presence of the Duty Magistrate, after breaking windowpane of the car, plastic bags were checked and bags were found filled with poppy husk. After arranging electronic weighing scale, said bags were weighed at the spot and total 02 qtl. 05 kgs i.e. 15 KG, 10 KG, 20 KG, 20 KG, 20 KG, 20 KG, 10 KG, 20 KG, 15 KG, 20 KG, 20 KG, 5 KG, 10 KG poppy husk was recovered from total 13 bags lying in car No.HR-26-BE- 2183. Recovered case property was sealed by me with seal impression 'AK' and Naib Tehsildar Sh. Naresh Kumar affixed his seal with impression 'HP'. Seal after use was handed over to HC Satbir. Recovered case property and car were taken in police possession vide separate seizure memo. People from the public were passing through at the spot, who were asked to become witnesses, but all of them left the place by expressing their respective compulsions. Some unknown person by keeping total 02 qtls 05 kg poppy husk in 13 plastic bags in his car bearing No.HR-26-BE-2183 has committed offence under Sections 20/61/85 of NDPS ACT. Hence, after writing ruqa, same is being sent to police station by hand through Ct. Jasbir No.592 for registration of FIR. After lodging FIR, number of which be informed and some another Investigating Officer be sent at the spot for conducting investigation. Special reports be sent to Ilaka

Magistrate and senior officers. Today, on the over bridge Rewasa-Mahendergarh. Sd/- Rakesh Kumar, SI, SPL STAFF M/GH dated 23.07.2021. On receiving of said ruqa at police station, FIR was registered for the respective offences. Thereafter, copy of FIR alongwith original ruqa is being sent to Investigation Officer at the spot by hand through the same Ct. for conducting further investigation and further, another Investigation Officer P/SI Manoj Kumar has been informed for reaching at the spot. After preparing computerized copies of FIR, same will be sent to Ilaqa Magistrate and senior officers via email for information. Record has been completed.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the basis of disclosure statement of co-accused Narang Singh. He further submits that similarly situated co-accused Sukhchain Singh has already been granted the concession of interim bail vide order dated 24.01.2024 (Annexure P-4) passed in CRM-M-3817-2024, which was made absolute on 26.04.2024 (Annexure P-4/A).

Notice of motion.

On behalf of the State/complainant

On the asking of Court, Mr. Chetan Sharma, DAG Haryana, accepts notice on behalf of respondent/State. He prays for dismissal of the present petition stating that the contraband of 205 kgs of poppy husk is commercial in nature, therefore, rigour of Section 37 would be attracted in the present case.

4. **Analysis**

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 light of the self-imposed restrictions and the broader legal parameters outlined.

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.

In fact, the jurisdiction of the Court to grant bail is circumscribed by the provision of Section 37 of NDPS Act specifically observing that bail can be granted only if reasonable grounds are there to believe the innocence of the accused added with the fact that he is not likely to commit any offence while on bail. The mandate as envisaged under section 37 of the NDPS Act needs to be followed which reads as under:

“37. Offences to be cognizable and non-bailable.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of

1974),— (a) every offence punishable under this Act shall be cognizable; (b) no person accused of an offence punishable for 3 [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless— (i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of subsection (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.”

Going a step further it is negative burden casted on the petitioner to disapprove the case of prosecution as per the mandate of Section 37 of the NDPS Act which discloses that the offences are cognizable and non-bailable.

5. **Conclusion:**

Adverting to the merits of the present case, wherein 205 kgs of poppy husk, stands recovered, though not from the petitioner, but from the other co-accused persons, who disclosed his name. Moreover, the quantity recovered is commercial in nature, therefore the rigours of Section 37 of NDPS would attract in this case and therefore, this Court is of the view that custodial interrogation of the petitioner is required.

Insofar as the petitioner's contention regarding parity with co-accused Sukhchain Singh is concerned, it is submitted that the allegations against Sukhchain Singh are limited to his mere presence in the company of the main accused. However, the petitioner is specifically and categorically alleged to have supplied the contraband in question, namely 205 kilograms of poppy husk, which

falls within the ambit of commercial quantity under the NDPS Act. Given the substantial quantity involved, it cannot be reasonably presumed to have been falsely implicated or planted upon the petitioner or the co-accused. Accordingly, the petitioner is not entitled to claim parity with Sukhchain Singh.

In light of these concerns, the court, as the guardian of its citizens, deems it essential to take decisive action against such offenders, especially when the lives and futures of the nation's youth are at stake. The drug epidemic must be tackled with the utmost seriousness. The illegal activities carried out by the individuals involved must be met with resolute measures. The intent of the legislature and the integrity of the rule of law must be preserved at all costs, and cannot be allowed to be undermined, irrespective of the quantity of drugs involved.

6. Decision

In the light of above, dictums and discussions made hereinabove, the petition stands dismissed with no order as to costs.

22.05.2025

Meenu

**(SANDEEP MOUDGIL)
JUDGE**

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