

340

2025:PHHC:102035



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

**CRM-M-29736-2025 (O&M)
DECIDED ON: 04.08.2025**

AMAN ROJI

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Nitin Bansal, Advocate and
Mr. Saurabh Srivastave, Advocate for the petitioner.

Mr. Iqbalpreet Singh, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked for second time under Section 483 of BNSS, 2023 for seeking the concession of regular bail in FIR No. 57 dated 27.04.2024 registered under Sections 21(c), 61, 85 NDPS Act, 1985 at Police Station Division No.1, Jalandhar, Distt. Jalandhar, (Annexure P-1), during the pendency of the trial.

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

‘ 12. F.I.R. contents: S.H.O. Police Station Division number No.1, Jalandhar Jai Hind, today I the SI along with SI Jaswinder Singh number. 2132, ASI Gurmail Singh number 2411, ASI Amritpal Singh number 456, ASI Balkar Mattumber

2197, ASI Gauri Shankar number 1905, S/CT Nitin Tandon number 1584, S/CT 13 Surinderpal number 2294, HC Amanjot Kaur number 999, CT Prince Thind number 497 in a government vehicle make Scorpio bearing number PB65-BG-2591, whose driver is CT Jaswinder Singh number 218 and in a government vehicle make Bolero bearing number PB08-DS-4498, whose driver is CT Sukhjinder Singh 2367 am present at Y-Point Bhagat Singh Colony Bypass along with laptop-printer for the purpose of NAKA and patrolling and checking of the suspected vehicles was being done. Then in the meanwhile, one Innova vehicle bearing number PB08-BS-2958 of white colour was seen coming from the side of G.T. road, which was being driven by one clean shaven young person, who was signaled to stop, but he tried to drove the vehicle and run away from the spot, on which the young boy driving the vehicle was apprehended along with vehicle with the help of accompanying police officials and asked his name and address. On which, he told his name as Satnam Singh alias Bubby son of Gurdev Singh resident of village Thandian, Police Station Sadar Banga, District S.B.S. Nagar, on which, I the SI in a uniform inform about me to Satnam Singh alias Bubby son of Gurdev Singh resident of village Thandian, Police Station Sadar Banga, District S.B.S. Nagar and got served notice u/s 50 of NDPS Act to the effect that I the SI Sukhraj Singh am posted at C.I.A. Staff, Jalandhar. Name plate is affixed on my uniform and I have suspicion of having some objectionable contraband substance with you and in your vehicle bearing number PB08-BS-2958 of white colour, as such search of yourself and your vehicle bearing number PB08-BS-2958 of white colour, make Innova is to be conducted and you have a legal right that you can get conducted search of yourself and your above mentioned vehicle bearing 15 number PB08-BS-2958 of white colour,, make Innova from some Magistrate Sahib or any gazetted officer, who replied that I want to get conducted search of my

vehicle from some gazetted officer. On which, I the SI by making a phone call at about 6:05 PM from my phone number 98156-87644 to Sh. Paramjeet Singh PPS ACP/Detective, Jalandhar on his phone number 98140-86612, made conversant him about the facts and circumstances and requested him to come on the spot. After about 15 minutes, he came on the spot in a government vehicle make Bolero bearing number PB65-BC-6450 along with his gunman AŞI Jagiri Lal number 932, whose driver is ASI Kulwinder Singh number 971, who asked the name and address of person apprehended by me, who told his name as Satnam Singh alias Bubby son of Gurdev Singh resident of vintage. Thandian, Police Station Sadar Banga, Nagar, District S.B.S. on which Sh. Paramjeet Singh PPS ACP/Detective, Jalandhar got served a notice u/s 50 of NDPS Act to the above mentioned Satnam Singh to the effect that I Sh.Paramjeet Singh PPS ACP/Detective am posted at Jalandhar. I have worn uniform and my name plate is affixed to my uniform. I have suspicion of having some objectionable contraband substance in your vehicle bearing number PB08-BS-2958 of white colour, make Innova, due to which search of your vehicle is to be conducted, but you have a legal right that you can get conducted search of your vehicle from some Magistrate Sahib or from some gazetted officer, who replied that I have faith in you itself and only you can conduct my search as well as search of my vehicle. On which, before conducting search of the vehicle of Satnam Singh alias Bubby, attempts were made to join public witness, but despite making effective A (16) 20 attempts, public witness couldn't be joined the police party. On which, I the SI on the instructions of Sh.Paramjeet Singh PPS ACP/Detective, Jalandhar and in his presence had conducted search of vehicle bearing number PB08-BS-2958 of white colour, make Innova of the above mentioned Satnam Singh alias Bubby, then 08 (eight) packets were found in a black coloured bag kept on the

adjoining/parallel seat of the driver seat, which were opened and Heroin was recovered from the same. Out of which, 7 (seven) packets which are packed in cloth and a plastic carry bag is in it. A round stamp/seal is affixed on the cloth and BLUE SAPPHIRE-55, scissor cross is drawn on the stamp/seal and 2024 is written below the scissor cross and 444 is written on the cloth and one packet, which is packed in the cloth, one plastic carry bag is kept in it. A round stamp/seal is affixed on the cloth and SUPERSTAR 888 is written on the round stamp. One currency note counting machine of golden colour, Rs.21 lakhs (Twenty One Lakh) of the denomination of Rs.500/500, total 4200 currency notes were recovered from one white coloured polythene carry bag. On weighing the recovered packets of heroin on an electronic weighing machine turn by turn, 1/1 kilogram of 1 Heroin was' recovered from each and every white coloured polythene carry bag i.e. total 8 was recovered. (eight) kilograms of Heroin Then by putting the recovered 08 (eight) packets of Heroin in various plastic boxes, parcels as regards case property were prepared and the duly prepared case property 7 (seven) parcels containing Heroin each weighing 1/1 kilograms, on which a round shaped stamp/seal is affixed on the cloth and BLUE SAPPHIRE-555, scissor Dross is drawn on the stamp/seal and 2024 is written below the scissor cross, were marked with marks A, B, C, D, E, F, G and one case property parcel of Heroin weighing 01 Kilogram, on which a round shaped stamp/seal is affixed on the cloth and SUPERSTAR 888 is written on the stamp/seal, was marked with mark H. By putting the recovered amount of Rs.21 lakh (twenty one lakh) in a separate parcel made of cloth, its case property parcel was prepared. By putting the recovered bag in a separate parcel made of cloth, case property parcel was prepared. By putting the currency note counting machine in a separate parcel of cloth, its case property parcel was prepared. I the SI had duly stamped/sealed the duly prepared

case property parcels with my stamp/seal of words 'SS' and Sh.Paramjeet Singh PPS ACP/Detective, Jalandhar had stamped/sealed the same with his stamp/seal of words PS. Sample seal was prepared separately. I the SI had handed over my seal PPS to the SI Jaswinder Singh number 2132 after using the same. Sh.Paramjeet Singh ACP/Detective, Jalandhar had kept his seal with him. On opening dashboard of the vehicle bearing number PB08-BS-2958 of white colour, make Innova and on checking the same, R.C. was recovered from it, which is in the name of Mangat Ram son of Pragas Ram resident of village Cheema Khurd, Post Office, Apra, District Jalandhar. On which, the prepared parcels of case property i.e. Heroin weighing 1/1 kilogram, total weight 8 kilogram duly (eight) duly marked with marks A, B, C, D, E, F, G, H and duly prepared case property parcels of Rs.21 lakhs (Twenty One Lakhs Only), case property parcel as regards currency notes counting machine, case property parcel of black coloured bag duly stamped Sealed with stamps/seals SS/PS and the vehicle make Innova, bearing number PB08-BS-21 2958 of white colour along with R.C. were taken in police custody vide a separate recovery memo as evidence and recovery memo as regards recovered Heroin, Rs.21 lakhs, currency notes counting machine, bag and vehicle make Innova, bearing number PB08-BS-2958 of white colour were verified by Sh. Paramjeet Singh PPS ACP/Detective, Jalandhar. Thus, the above mentioned Satnam Singh alias Bubby has committed offence punishable under sections 21C/61/85 of NDPS Act by keeping 08 (eight) kilograms of Heroin in his custody. On which, by reducing into writing a ruqa, the same is hereby sent through S/CT Surinderpal number 2294 to the police station for the purpose of registration of a case. After registration of a case, its number should be intimated and by issuing special seports, the same should be send to the Illaqa Magistrate Sahib and higher police 22

officials for their kind perusal. I the SI along with accompanying police officials am busy in investigation on the spot. Today in the area of Y-Point Bhagat Singh Colony, Bypass Jalandhar, time: 7:30 PM, Sd/- Sukhraj Singh SI Sukhraj Singh number 2141, C.I.A. Staff, Commissionerate Jalandhar, dated 27.04.2024. Today at Police Station: On receipt of the above mentioned writing at police station, by registering the first information report under above mentioned. sections, the original writing along with copy of FIR is being sent through S/CT to the SI on the spot. By preparing special reports, the same are hereby sent through ASI Palwinder Singh number 3359 to the Illaqa Magistrate Sahib and senior police officials for their kind perusal. Information to the Police Control room was sent through telephonic message. Rapat number 39, dated 27.04.2024.'

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and the alleged recovery of contraband i.e. 48 kg and 500 grams of Heroin was not recovered from her conscious possession. He further submits that the petitioner was only sitting in the car bearing registration No. PB-10-DE-0739 make Verna, colour white from where the alleged recovery was effected. He has argued that in the present case, the investigation has already been completed, the challan has been presented before the Court, and no recovery remains to be effected from the petitioner.

On behalf of the State

Learned State Counsel has submitted the custody certificate of the petitioner, which is hereby taken on record. As per the details mentioned

in the certificate, the petitioner has been in judicial custody for a period of 1 year, 2 months and 26 days.

The Learned State Counsel has vehemently opposed the prayer made in the present petition on the ground that huge quantity of contraband i.e. 48 kg. and 500 grams of Heroin along with drug money of Rs. 1 crore has been recovered in the present case. He submits that recovered contraband is commercial in nature, therefore, rigour of Section 37 of NDPS Act would be attracted in the present case.

4. **Analysis & Conclusion**

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.

While addressing the objectives of the NDPS Act, the Hon'ble Supreme Court in the case of ***Durand Didier v Chief Secretary, Union Territory Of Goa (1990) 1 SCC 95*** emphasized that the rampant issue of clandestine smuggling and illegal trafficking of drugs and substances has led to widespread drug addiction, particularly among adolescents and youth.

This has had a harmful and devastating impact on society. With grave concern, it was noted that the organized activities of criminal groups

and the illegal importation of narcotic drugs and psychotropic substances into the country have caused a significant increase in drug addiction, especially among young people and students, affecting both genders. The menace has grown to alarming proportions in recent years. Consequently, to effectively combat and eliminate this growing threat, which is causing severe and harmful effects on society as a whole, Parliament, in its wisdom, enacted the NDPS Act of 1985, introducing provisions that mandate minimum imprisonment and fines for such offenses.

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 sub-section (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.

Adverting to the merits of the present case, it is noted that a substantial quantity of contraband, i.e., 48 kilograms of heroin, was recovered along with drug proceeds amounting to ₹1 crore from a vehicle bearing registration number PB-10-DE-073, which is registered in the name of the petitioner's husband. It is further revealed that the petitioner herself was present and travelling in the said vehicle at the time of recovery.

The recovery of such a large quantity clearly falls within the ambit of commercial quantity as defined under the Narcotic Drugs and Psychotropic Substances Act, 1985. In view of this, the statutory bar contained in Section 37 of the NDPS Act becomes applicable. As per the mandate of Section 37, in cases involving commercial quantity, bail cannot be granted unless the Court is satisfied that there are reasonable grounds to believe that the accused is not guilty of the offence and is not likely to commit any offence while on bail.

5. **Decision:-**

In the present case, keeping in view the serious nature of the offence, the magnitude of the recovery, the petitioner's presence in the vehicle, and the presumption under the NDPS Act regarding conscious possession, no such satisfaction can be recorded by the Court at this stage.

Therefore, it would not be appropriate or justified to enlarge the petitioner on bail.

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

Pending application(s), if any shall disposed off, accordingly.

However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the trial Court is free to adjudicate upon the matter in accordance with law.

04.08.2025
anuradha (a)

(SANDEEP MOUDGIL)
JUDGE

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