



CRM-M-30723-2025

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

CRM-M-30723-2025
Decided on:29.05.2025

Naem Petitioner

versus

State of Haryana Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sanpreet Sandhu, Advocate
for the petitioner.

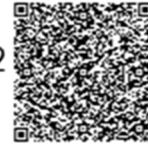
Sandeep Moudgil, J. (Oral)

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. 821, Dated 12.10.2023, registered under Sections 21(b)/29 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station City Yamuna Nagar, District Yamuna Nagar.

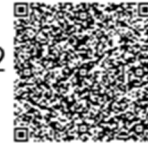
2. Prosecution story setup in the present case as per the version in the FIR as under:-

“To SHO, City Police Station Yamunanagar Jai Hind Sir, today 1, ASI Gurdayal Singh No. 117/A Incharge Police Post Hamida along with SI Surendra No. 786, HC Navneet Singh 162/YNR along with constable Sanjeev Kumar No. 53, am present in a private vehicle No. HR02AF0130 with laptop, printer and 1/0 kit for patrolling and investigation of crime, near Purana Hamida, Gadhi Road, near Sudhir Atta Chakki, that a special informer gave a secret information to I, ASI, that Zinda Hasan alias Hasan, son of Jan Mohammad, resident of house no. 294, Khadda Colony, Hamida, works in selling smack/heroin and even today he is standing near Gadhi Road Hamida Madrasa to sell smack/heroin, if an immediate raid is conducted then Zinda Hasan alias Hasan, the above mentioned person will be caught;



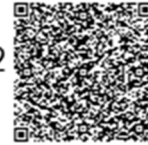
CRM-M-30723-2025

can be arrested along with smack/heroin, and the information is from a sure and trustworthy person, the ASI called from his personal mobile at 6.00 PM and informed Shri Kanwaljeet Singh (H.P.S.), Deputy Superintendent of Police, Headquarters, Yamuna Nagar on his mobile no. 8818000104 about the information and the ASI also prepared notice 42 NDPS Act separately and sent it to constable Sanjeev Kumar no. 57 for information at the residence of Deputy Superintendent of Police, Headquarters, Yamuna Nagar at Police Line, Jagadhari at 6.35 PM, which the ASI is sending to the people coming to the spot through Rukka Manager Officer, Police Station City Yamuna Nagar, on e-mail to record the situation and information about the informer. Register the Rukka and inform with the copy of the report. The ASI explained the situation to the people coming and going on the spot and requested them to join the raiding party or become witnesses, but all the people expressed their helplessness and left the spot one by one without disclosing their names and addresses. Then the ASI along with his fellow employee along with the special informant stopped the private vehicle at some distance from the madrasa as told by the special informant and informed by gesturing that the boy seen near the gate of the madrasa wearing a black T-shirt and green lowers is Zinda Hasan alias Hasan and the special informant got down from the vehicle and left. The ASI stopped the private vehicle near the person told by the special informant and took him under control with the help of his fellow employee, who on my asking told his name as Zinda Hasan alias Hasan son of Jan Mohammad resident of house no. 294 Khadda Colony Hamida district Yamuna Nagar. The ASI read out Section 50 of the NDPS Act to him through a notice and explained it to him and asked him whether he suspected that he was carrying drugs. He has the legal right to be searched by a Magistrate/Gazetted Officer. You have the right and are given time to think over it. After much thinking over it, the ASI agreed that he wanted a Gazetted Officer to search him. The notice under Section 50 NDPS Act and consent letter were prepared separately by the ASI on which the accused and the witness signed and thereafter the ASI from his personal mobile phone contacted Shri Mahipal Garden Development Officer, Block Bilaspur. District Yamuna Nagar on his mobile no. 9991021325 at 7.00 PM and informed him about the situation and requested him to come to the spot, who on the request of the ASI agreed to reach the spot, who reached the spot in his



CRM-M-30723-2025

private car at 7. Reached the spot at 5:30 PM and in front of Shri Mahipal, Garden Development Officer, Block Bilaspur, District Yamuna Nagar, the ASI presented the notice under Section 50 of the NDPS Act and the consent letter along with the above mentioned accused and witnesses. Shri Mahipal, Garden Development Officer, Block Bilaspur, District Yamuna Nagar, sent the Notice 50 of the NDPS Act to the accused, Zinda Hasan alias Hasan, son of Jan Mohammad, resident of House No. 294, Khadda Colony, Hamida, District Yamuna Nagar, by identifying himself and interrogated the witnesses separately and then Shri Mahipal, Garden Development Officer, Block Bilaspur, District Yamuna Nagar, conducted a personal search of the ASI as per law and no other item was recovered from the ASI except the items of daily use. Shri Mahipal, Garden Development Officer, Block Bilaspur, District Yamuna Nagar ordered the ASI to conduct a personal search of all the employees present at the spot. The ASI, as per the orders of Shri Mahipal, Garden Development Officer, Bilaspur District Yamuna Nagar, conducted a proper search of all the employees present on the spot. Apart from the items of daily use, no intoxicating substance was recovered. The employee's personal search report was prepared separately. The witnesses signed on the report and the employee's personal search report was attested by Shri Mahipal, Garden Development Officer, Bilaspur District Yamuna Nagar. Then, as per the orders of Shri Mahipal, Garden Development Officer, Bilaspur District Yamuna Nagar, the ASI searched Zinda Hasan alias Hasan. During the search, a transparent plastic foil containing brownish narcotic substance was recovered from the left pocket of the colored green loincloth worn by Zinda Hasan. When the ASI asked him about the recovered narcotic substance, Zinda Hasan said that it was smack, which I too identified as smack/heroin on the basis of my experience. The drug identification form was prepared on which the accused and the witness signed and Shri Mahipal, Garden Development Officer, Division Bilaspur, District Yamuna Nagar attested the drug form and then the ASI weighed the smack/heroin along with the foil with the mobile weighing scale kept in his private vehicle and it was 06.52 grams. When the smack/heroin was taken out from the plastic foil and weighed, the net weight of the smack/heroin was 06.22 grams and the weight of the empty plastic foil was 0.30 grams. The smack/heroin was put in the same transparent foil and a cloth sheet was prepared.



CRM-M-30723-2025

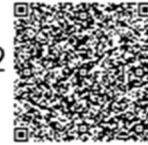
On the cloth sheet, I stamped three seals of SS and Shri Mahipal, Garden Development Officer, Division Bilaspur, District Yamuna Nagar stamped it with one seal of LM and the sample seal was prepared separately. And Shri Mahipal Garden Development Officer, Block Bilaspur, District Yamuna Nagar kept his seal with himself after use. I destroyed my seal SS after use at the spot. The total weight of the Palanda smack/heroin sealed seal was 17.26 grams. The Palanda smack/heroin sealed seal was taken into police custody in Bajaria FIR. The accused and the witnesses signed on the FIR. And Shri Mahipal Garden Development Officer, Block Bilaspur, District Yamuna Nagar attested to the recovery report of the body search, which accused Zinda Hasan alias Hasan above mentioned had in his possession 06. By keeping 22 grams of smack/heroin, a crime under sections 21B-61-85 of the NDPS Act has been committed, hence a written complaint has been lodged with the police station under head constable Navneet Singh no. 162/YNR; after the registration of the case number, inform the police station and a special report of the case should be sent to the concerned officers. For sending another investigation officer to the spot for further investigation, Police post Hamida was informed through Bajriya mobile phone; I ASI am busy in investigation at the spot. Today:- Near Madrasa Gadhi Road Purana Hamida SD/-ASI GURDYAL SINGH I/C Police Chowki Hamida, Date 12.10.2023 Time 8-40 pm”

3. Contentions

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 Jinda Hassan @ Hassan from whom the recovery of 6.52 grams of heroin has been recovered. He further submits that the recovery of contraband is non-commercial in nature. He undertakes on behalf of the petitioner that he is ready and willing to join the investigation.

Notice of motion.



CRM-M-30723-2025

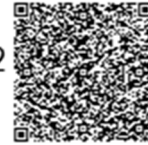
On behalf of the State/complainant

On the asking of Court, Mr. Chetan Sharma, DAG, Haryana accepts notice on behalf of respondent/State. He prays for dismissal of the present petitions stating that the petitioner is a habitual offender, as he is involved in other cases.

4. Analysis

Be that as it may, having given a considerable thought to the submissions made hereinabove especially to the fact that the petitioner was nominated only on the disclosure statement of co-accused Dilbagh Singh @ Gazi from whom the recovery of alleged contraband was recovered and no incriminating material has been put forth by the State to connect the petitioner with the alleged contraband, this Court is of the considered view that there is no valid or cogent reason to deny the bail to the present petitioner, wherein he has *bona fide* intentions and is ready and willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “**Baljinder Singh alias Rock vs. State of Punjab**” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in



CRM-M-30723-2025

all probability would lend the petitioner in a situation of denial the concession of bail.

5. **Relief:**

Hence, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.’

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within a period



CRM-M-30723-2025

of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

29.05.2025
sonia

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/non-speaking?
Whether reportable?

Yes/No
Yes/No