

2025:PHHC:076370



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32820-2025
DECIDED ON: 19.06.2025

DAUD ALIAS MUSA

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Munish Gulati, 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. 53 dated 29.05.2025 under section 21(b) of NDPS Act, 1985 registered at Police Station Uttawar, Tehsil-Hathin, District Palwal.

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

“To, SHO Police station Uttawar, jai Hind, today I ASI Satbir NO.1101 alongwith EHC Sahun No.1065, C.Vinod 498, C. Anil Kumar 820 on govt. vehicle NO.HR-30-GV-3614 being driven by driver ESI Devi Dayal No.86/PWL and AVT staff of Hathin reached at Uttawar Chowk in my police uniform for the purpose of crime investigation, then a secret informer met me at Utawar Chowk at about 06.55pm and intimated me that Daud @ Musa son of Ratti Kha

resident of Mohalla Chabeniya Uttawar is indulge in selling smack and today also he is selling smack infront of his house while sitting on a cot and people who used to inhale smack are inhaling it by purchasing the same and roaming around, if immediate raid is conducted then he can be apprehended alongwith smack, upon receiving the information of narcotic substance smack, I prepared notice under section 42 of NDPS Act for intimating the higher officials about the information received and the same sent through C. Vinod 498/PWL and prepare a raiding party and also accompanied secret informer with me and proceeded towards house of Daud @ Mussa aforesaid and reached near the street, where secret informer pointed out that while going in this lane, a person is sitting in front of the house before the last house on the right hand side and selling things. After releasing the special informer, I along with my ASI and his companions reached the place indicated by the special informer. Due to a vehicle parked in the lane ahead, I stopped the vehicle about 10-15 meters behind. On seeing the police vehicle, a person got up from the cot and started running towards the water filled Johar. When he was chased, he jumped over the wall and ran into the narrow lanes. Another officer chased him. At the spot, the person left a green polythene bag on the cot itself. At the spot, many people from the neighborhood came and were asked to be witnesses to the incident, but being neighbors, they expressed their helplessness and left the spot without revealing their name and address. When the employee returned and checked the polythene bag of green color lying on the cot, two polythene bags were found inside the polythene bag. In one polythene bag of white colour many silver paper folds were found and on checking the other polythene bag of white colour then white powder was found inside in a polythene packing which on the basis of smell and experience was found to be narcotic substance chitta (heroin) which ASI gave his mobile phone Vivo to C. Anil Kumar 820/PWL and gave him instructions about making video on e-evidence and a separate statement of identification of the narcotic substance chitta (heroin) was prepared on which the witnesses put

their signatures and at the same time C. Vinod Kumar 498/PWL appeared at the spot, the accused Dawood alias Musa ran away from the spot, there is no justification for giving notice under Section 50 of NDPS-ACT, the recovered chitta (heroin) was kept in the same polythene bag and was measured on weighing the polythene bag with the electronic scale, which was in the investigation bag, the total weight was 34 grams. The Chitta (heroin) which was in green polythene bag is kept in white polythene bag and the recovered folded silver paper kept in white polythene was put in same green polythene bag and the parcel was prepared and on parcel I ASI affixed a stamp HS and affixed three stamps on the parcel. Sample parcel was prepared separately and it was stamped with mark "HS" and thereafter, the stamp was handed over to C. Anil Kumar 820/PWL, which was taken into possession as evidence after preparing the memo and list of goods confiscated recovered was prepared and parcel of (Heroin) Chitta signed was by witnesses, that accused Daud @ Mussa aforesaid had committed the offences punishable under section 21 (b)/61/85 of NDPS Act as he was not having any license of permit for having in his possession chitta (heroin) weighing 34 grams. That the report has been written in laptop against the accused Daud @ Mussa and print out and to get the FIR registered. C. Anil 820/PWL, after which the police station in question should be informed through the FIR Number and the special report Magistrate and is officers sent to through the a Area special carrier and for further investigation at the spot, another investigation should be appointed and send to the spot for further investigation. I am ASI busy at the spot for investigation

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 that the recovery of 34 grams of heroin falls within the non-commercial quantity category. He further contends that conscious possession cannot be attributed to the petitioner, as per the case of the

prosecution itself as the recovery was made from a cot where two polythene bags were allegedly found. Moreover, no independent witness was associated with the recovery proceedings to substantiate that the contraband was in the possession of the petitioner. It is also submitted that the petitioner was not apprehended from the spot where the alleged recovery was effected by the police officials. He undertakes on behalf of the petitioner that he is ready and willing to join the investigation.

Notice of motion.

On behalf of the State/complainant

On the asking of Court, Mr. Surender Singh Pannu, Addl. AG, Haryana, accepts notice on behalf of respondent/State. He prays for dismissal of the present petition stating that 34 grams of heroin was recovered from the petitioner.

4. **Analysis**

Be that as it may, having given a considerable thought to the submissions made hereinabove especially the fact that recovery of 34 grams of heroin is non-commercial in nature and false implication of the petitioner cannot be ruled out, as State could not produce any incriminating material to connect the petitioner with the alleged contraband added with the fact that the petitioner is not involved in any other case, meaning thereby he is a person of clean antecedents, 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.

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

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

19.06.2025

Meenu

Whether speaking/reasoned: Yes/No

Whether reportable : Yes/No