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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32908-2025
DECIDED ON: 20.06.2025

SUPANDEEP SINGH ALIAS SUFANDEEP SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Riffi Birla, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG Punjab.

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. 92 Dated 02.05.2025 registered Under Section 21 (C) of NDPS Act (offence under section 29 of NDPS Act added later on) at police station Canal Colony Bathinda, District Bathinda (Annexure P-1) keeping in view the facts and circumstances mentioned in the petition.

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

“Copy of ruqa, today, I SI alongwith C. Pankaj Kumar 1900/Bathinda, C. Inderjeet Singh 463, Sr. Constable Ramandeep Singh 586, PHG Rampal Singh 21940 were going on bearing NO.T-0225-MH-0812 a govt. vehicle Scorpio C whose

driver is C.Harwinder Singh NO.1585/Bathinda and were going from Kisan Chowk to ring road towards Malout Road regarding patrolling and checking of suspicious persons and when police party was about. 10/12 karams behind Sirhind river bridge then at about 05.15pm two clean cut surd persons were seen standing alongwith the motorcycle on palace side on right hand side of the road of the police party, I SI on the basis of suspicion took U-turn of my vehicle and stopped near this motorcycle and the said both clean cut surd person were doing something with black colour bag tied on the side of the motorcycle, who on seeing the police party close the zip of bag and got suspicion on seeing the nervousness of the said clean cut surd persons and from the bag tied on the side of the motorcycle in their possession. Then I SI tried to join private witness in the police party on the spot but no persons agreed to join in the police party, everyone express their difficulty. On asking by I SI, the first person disclosed his name as Sukhwinder Singh @ Sukha son of Gurnam Singh and second persons disclosed his name as Sukhwinder Singh @ Babbu son of Kaka Singh residents of near govt. School Basti NO. 03 Beer Talab Bathinda. Then I SI after complying with section 50 of NDPS Act disclosed about my name, rank and posting turn by turn to Sukhwinder Singh @ Sukha and Sukhwinder Singh @ Babu aforesaid that I SI Harjiwan Singh NO. 13/Bathinda, Station House Officer at police station Canal Colony, Bathinda. I am wearing uniform of my rank and name plate is affixed on it. I have doubt of some intoxicant substance in black colour bag tied on the side of motorcycle in your possession, due to which search of motorcycle mark Hero bearing NO. PB-22X-9626 of black colour alongwith bag in your possession alongwith bag is to be conducted under Narcotic Drugs and Psychotronic substance Act. You have legal right to get your personal search and search of motorcycle and search of black colour bag tied on the side from any Gazetted officer or Magistrate or you can be taken alongwith bag, motorcycle for effecting search before them. Sukhwinder Singh @ Sukha and Sukhwinder Singh @ Babbu aforesaid said turn by turn that we want to get our personal search and search of motorcycle and black colour bag tied to it from any Gazetted officer, on which separate-separate notice under section 50 of NDPS Act and were read over turn by turn to Sukhwinder Singh @ Sukha and Sukhwinder Singh @ Babbu aforesaid. Sukhwinder Singh @ Sukha and Sukhwinder Singh @ Babbu aforesaid signed on their notices and witness put their witness on it. Then I SI called from my mobile phone to

District Control room Bathinda to send Gazetted officer on the spot and at about 05.55 pm sh. Harbans Singh PPS Deputy Superintendent of Police, City-I, Bathinda reach on the spot on his government vehicle Bolero bearing No. PB-03AP-5904 alongwith gunman and weapon. Then Harbans Singh PPS Deputy Superintendent of Police, City-I, Bathinda, tried to join private witness in the police on the spot but no person agreed to join in the police party, every one expressed their difficulty. Sh. Harbans Singh PPS Deputy Superintendent of Police, City- I, Bathinda asked about the name and address of apprehended persons of motorcycle alongwith black colour bag aforesaid from I SI, on which first clean cut surd person disclosed his name as Sukhwinder Singh @ Sukha son of Gurnam Singh and second clean cut surd person disclosed his name as Sukhwinder Singh Babbu son of Kaka Singh r/o near Govt. School Basti NO. 03, Beer Talab Ta Bathinda. Then Sh. Harbans Singh PPS Deputy Superintendent of Police, City-I, Bathinda. while complying with section 50 of NDPS Act turn by turn told about his name, rank and posting to aforesaid Sukhwinder Singh @ Babbu and Sukhwinder singh @ Sukha aforesaid. That my name is Harbans Singh, I am wearing uniform of my rank and name plate is affixed on it. I am Gazetted officer of Punjab Government and is posted as Deputy Superintendent of Police, City-I, Bathinda. have doubt of some intoxicant substance in your person and motorcycle in your possession and bag tied on the side of the motorcycle, due to which your personal search and search of motorcycle mark Hero No. PB-22X-9626 of black and red colour in your possession and aforesaid bag tied to it is to be conducted under NDPS Act. You have legal right to get your search and search of motorcycle of aforesaid number in your possession and bag tied to it search be done from any Gazetted officer or Magistrate or you can be taken alongwith motorcycle alongwith bag aforesaid before them, on which Sukhwinder Singh @Sukha and Sukhwinder Singh @ Babbu said that we have faith upon you and you can conduct search of our person and motorcycle in our possession and bag tied to it. On which notice under section 50 of NDPS act was prepared separately, on which Sukhwinder Singh @ Sukha and Sukhwinder Singh @ Babbu aforesaid signed on their notices, I SI and constable Pankaj Kumar 1900/Bathinda, C. Inderjit Singh 463/Bathinda, put their witness on it. Then I SI according to the instruction and in presence of Sh. Harbans Singh PPS Deputy Superintendent of Police, City-I, Bathinda conducted search of black colour bag tied to the

motorcycle of Sukhwinder Singh @ Sukha and Sukhwinder Singh @ Babbu aforesaid, then one white colour transparent polythene was found from the bag and on checking it heroin was recovered. The recovery heroin was weighed with the help of computerized scale, which came out to be 513 grams of heroin alongwith polythene, which was put in the same polythene and put in the plastic box and parcel was prepared. I SI sealed the parcel with my seal HS, sample seal was prepared separately. DSP also sealed the parcel with his seal HS and also put his seal on sample seal and verified it. Then I SI checked motorcycle of aforesaid number from which no other intoxicant substance was recovered and no documents of ownership of motorcycle was found and on checking the chassis number of aforesaid motorcycle is 1027 and Engine No.11404, the parcel of heroin duly sealed alongwith sample seal and motorcycle mark Hero No.PB-22-X-9626 of black red colour aforesaid and black colour bag tied on the side of motorcycle taken were into police possession vide sperate recovery memo. Witnesses put their witness on the memo. DSP verified the memo. Then I SI according to the instruction of DSP conducted personal search of Sukhwinder Singh @Sukha and Sukhwinder Singh @ Babbu aforesaid turn by turn according to the rules then Rs.500/- currency notes and one mobile phone vivo or light colour alongwith SIM was recovered from the right pocket of lower worn by Sukhwinder Singh @ Sukha son of Gurnam Singh and one mobile phone mark Oppo of Purple colour alongwith SIM was recovered from the right pocket of the trouser worn by Sukhwinder Singh @ Babbu son of Kakka Singh and recovered aforesaid mobile phones and currency notes were taken into police possession vide separate personal search memo. Witnesses put their witness on the memo. Then I SI handed over the seal to constable Pankaj Kumar 1900/Bathinda. DSP verified the personal search memo. Offence under section 21-C, 61/85 of NDPS Act are made out against Sukhwinder Singh @ Sukha and Sukhwinder Singh @ Babbu aforesaid by keeping in their possession heavy quantity of heroin. Ruqa is sent through Senior Constable Ramandeep Singh 586 to police station for registration of FIR under aforesaid sections against Sukhwinder Singh @ Sukha and Sukhwinder Singh @ Babbu aforesaid. FIR number may be intimated after registration of FIR. Special reports may be issued. DCR may be informed. I SI alongwith companions is busy in investigation. Sd/ Harjiwan Singh, SI/13, Station House officer, Police station Canal Colony, Bathinda,

dated 02.05.2025 within the boundary of Ring Road, near Sirhind river bridge, Bathinda at 08.30pm”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner submits that the present FIR has been registered on the basis of ruqa sent to the police station by SI Harjiwan Singh to the effect that police party while doing patrolling and checking of suspicious persons saw two clean cut surd person standing alongwith the motorcycle and on the basis of suspicion, they were apprehended and on conducting search, a black coloured bag was tied to the side of the motorcycle wherein 513 grams allegedly of heroin was recovered from co-accused Sukhwinder Singh @ Sukha and Sukhwinder Singh @ Babbu and on the basis of aforesaid allegation, the present FIR was registered against aforesaid both persons. He contends that the petitioner was not named in the FIR and has been nominated later on the basis of disclosure statement of co-accused Sukhwinder Singh @ Sukha, vide DDR No. 23 dated 04.05.2025, which is not admissible as per law.

On behalf of respondent

Learned State counsel submits that there are serious allegation against the petitioner as contraband falling under commercial category, was recovered from possession of the co-accused of the petitioner and the petitioner abetted the commission of said offence by his co-accused and he is thus not entitled to the concession of bail as his custodial interrogation is required. He also pointed out that 513 grams of heroin was recovered in the present case from the co-accused of the petitioner without any permit or licence.

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

This Court is mindful that, according to the legal mandate rendered by Supreme Court in **Criminal Appeal No. 3840 of 2023**, titled **“Saumya Churasia versus Directorate of Enforcement, decided on 14.12.2023”**, when considering a bail application, the Court is not obligated to meticulously examine the evidence gathered by the Investigating Agency. However, the Court must consider several factors, including the nature of the accusation, the type of evidence collected in support, the severity of the punishment for the alleged offences, the character of the accused, the unique circumstances surrounding the accused, the likelihood of securing the accused’s presence during trial, the possibility of witness tampering, and the broader interests of the public or State. In the light of these factors, when assessing a bail application, the Court is required to form a prima facie opinion based on these broad guidelines, without delving into the merits of the evidence, as doing so could potentially prejudice the rights of both the accused and the prosecution.

To evaluate the bail application under the NDPS Act, this Court finds it necessary to revisit the Preamble of the Act, which in essence states that An Act to consolidate and amend the law relating to narcotic drugs, to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances, to provide for the forfeiture of property derived

from, or used in, illicit traffic in narcotic drugs and psychotropic substances, to implement the provisions of the International Conventions on Narcotic Drugs and Psychotropic Substances and for matters connected therewith.

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 offences.

The tactics employed by drug peddlers engaging in the narcotics trade often involve starting with small or intermediate quantities, banking on the assumption that, even if apprehended, they will be granted bail. This, however, cannot be the intended purpose of the law. Such individuals, involved in trafficking even modest amounts of contraband, are akin to termites eroding the fabric of society. It is imperative that, when considering bail applications from those engaged in the trafficking of small or intermediate quantities, the Court takes a firm and resolute stance, addressing them with the utmost severity to curb this insidious menace.

Merely because the quantity involved is categorized as "Intermediate Quantity" does not, by itself, bestow an automatic right to bail. Granting bail to those accused of trafficking or peddling highly dangerous substances such as Heroin/Chitta would essentially offer carte blanche for illegal activities. Such a decision would embolden these individuals to persist in their illicit trade, operating under the misguided belief that even if apprehended, they could be swiftly released on bail. It is imperative that such conduct and the false sense of impunity it fosters, be dealt with decisively, as they pose a profound threat to the very fabric of our society and nation. The modus operandi of the masterminds behind the illegal trafficking whether dealing in small or intermediate quantities must be met with unwavering severity. The legislative intent and the rule of law must be rigorously enforced, and cannot be allowed to be undermined, irrespective of the quantity in question.

Conclusion

As per record, there has been a recovery of 513 grams of heroin, a commercial quantity, which attracts the bar under Section 37 of NDPS Act. It is itself a bar which restricts the grant of bail unless the court is satisfied that the accused is not guilty and is unlikely to commit another offense. Moreover, the petitioner's alleged involvement in the conspiracy makes him vicariously liable for the recovery made from his co-accused, thereby linking him to the offense. That apart, based on the statement of co-accused Sukhwinder Singh alias Sukha (DDR No.23 dated 04.05.2025) and call detail records, wherein he categorically deposed that the contraband/heroin was given by the petitioner at the rate of Rs. 1500 per gram which in turn was given to Deepak Singh alias Deepa in lieu of settlement for sale at the rate of Rs. 2000 per gram, a prima facie case is established against the petitioner's involvement in the alleged offense and as such, to unearth the

supply chain and also to ascertain the extent of his culpability, petitioner’s custodial interrogation is necessary, which would not be possible if bail is granted.

Dismissed.

Nothing stated herein shall be taken as an expression of opinion on merits of the case before the trial court.

20.06.2025
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(SANDEEP MOUDGIL)
JUDGE

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