



CRM-M-36652-2024

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

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CRM-M-36652-2024 (O&M)

Date of Decision:03.03.2025

Gurbir Singh

.....Petitioner

Versus

Union of India

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**Present:** Mr. Yajur Sharma, Advocate for the petitioner.

Mr. Rajiv Sharma, Advocate for the respondent-NCB.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of pre-arrest bail to the petitioner in case NCB Crime No.03 dated 31.01.2024, under Sections 21, 22, 23, 25, 27-A, 29 and 60 of Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act'), registered at Police Station NCB Amritsar, District Amritsar.

2. Allegations are that co-accused were apprehended along with 4.369 kg of *heroin* (commercial quantity), 0.968 kg of Amphetamine, four live cartridges along with one pistol as well as one magazine, one Activa scooter & drug money of Rs. 68,500/-. Petitioner was nominated on the disclosure of one of the co-accused-Vijay Pal Singh.

3. Contends that petitioner was granted interim bail by the Coordinate Bench, vide order dated 31.07.2024 and in pursuance thereof, he



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has already joined the investigation; hence, his custodial interrogation is not required. Lastly contends that no other criminal case is pending against the petitioner.

4. Learned counsel for respondent-Narcotics Control Bureau, Amritsar, on instructions, has candidly acknowledged the above factual position and submits that except the disclosure of the co-accused, they have no other material on record against the petitioner till date.

5. Heard learned counsel for the parties and perused the paper-book.

6. It transpires that petitioner was granted interim bail by the Coordinate Bench, vide order dated 31.07.2024 and the order reads as under:-

“Petitioner Gurbir Singh has filed petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail in case NCB Crime No. 03 dated 31.01.2024, for the offences punishable under Sections 21, 22, 23, 25, 27-A, 29, 60 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station NCB Amritsar, District Amritsar.

Learned counsel for petitioner argued that petitioner has been falsely implicated in this case. In-fact from the possession of Darshan Singh, Vijay Pal Singh, Dhoni Singh and Gursimran Singh, huge quantity of contraband i.e. 4.369 Kg suspected Heroin, 0.968 Kg of Methamphetamine, one pistol, one magazine, four live cartridges, Activa bearing No. PB-02-DP-2408 and drug money of Rs. 68,500/- were recovered on 30.01.2024. Present petitioner has been wrongly named by one of the accused. House of petitioner was raided but no recovery was effected. He is ready to join the investigation. It is prayed that his arrest may kindly be stayed.

Notice of motion.

On asking of this Court, Mr. Rajiv Sharma, Advocate accepts notice on behalf of Union of India through Intelligence Officer, Narcotics Control Bureau, Amritsar. He is seeking adjournment to file status report. At this stage, learned counsel could not produce any document on record to connect present petitioner with accused who are already arrested.

In the light of this, let status report be filed on or before 10.09.2024.

Arrest of present petitioner is stayed only till next date of hearing, subject to joining of investigation.”



7. It is duly acknowledged by learned counsel for respondent that in pursuance of the aforesaid order, petitioner has joined investigation and his custodial interrogation is not required.

8. Thus, in such a scenario, there is no hesitation to record the “Twin Test” satisfaction in favour of the petitioner as per Section 37(1)(ii) of the NDPS Act in the following manner:-

(i) Prima facie, there is no material to indicate that petitioner was found in conscious possession of the alleged contraband; hence, being a debatable question, shall be decided during trial and in such a scenario, it is very difficult to say that petitioner is guilty of the alleged offence.

(ii) After registration of the FIR in question, petitioner has not been involved in any case under the NDPS Act.

9. Needless to say that above “Twin Test” satisfaction has been recorded only for the purpose of bail application and same be not treated as an opinion on pending trial.

10. In view of the above, there is no justification to deny the concession of pre-arrest bail to the petitioner. Consequently, present petition is allowed; interim order dated 31.07.2024 is made absolute subject to the conditions as envisaged under Section 482(2) of BNSS.

11. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

12. The above observations be not construed as an expression of opinion on merits of the case; rather confined only to decide the bail matter.

13. It is also clarified that in case of any recurrence on the part of petitioner, State would be at liberty to move an appropriate application for recalling of this order.



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

03.03.2025 (MAHABIR SINGH SINDHU)
Rajeev (rvs) JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No