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2025.PHHC:088584



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

**CRM-M-34206-2025
DECIDED ON: 04.07.2025**

SUMIT SHARMA @ SHAKKO**.....PETITIONER****VERSUS****STATE OF PUNJAB****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.**

Present: Mr. Neeraj Yadav, Advocate
for the Petitioner

Mr. Jastej Singh, Addl. AG, Punjab

SANDEEP MOUDGIL, J (ORAL)**1. Relief Sought**

The jurisdiction of this Court has been invoked under Section 482 of the BNSS, 2023, for grant of anticipatory bail to the petitioner in case FIR No. 143 dated 15.09.2023 (Annexure P-1) under section 21-C, 27-A, 29 of Narcotics Drugs and Psychotropic Substances Act 1985, (hereinafter referred as NDPS Act) registered at Police Station Sarhali, Taran Taran.

2. Brief facts of the case reads as under:-

“P.S. SARHALI, DISTRICT TARN TARAN. SHOPS Sarhali, Sat Sri Akal, Today I SI along with SI Surjit Singh 52/TT, ASI Paramdeep Singh 42/FZR, ASI Harmeeek Singh 1793/TT, HC Avtar Singh 50/TT, C. Sukhdeep Singh 783/TT, PHG Amarjit Singh 4607 along with Laptop printer accessory were riding in a government vehicle No. PB-07-T-4868 whose driver was ASI Beant Singh No. 1880/TT and were patrolling in the area of Patti turning point of Sarhali in the

search of the bad elements then the informant gave me information that Surjit Singh alias Ganda son of Jassa Singh, resident of Ratoke, Gurlal Singh son of Kashmir Singh, resident of Dasuwal, who, in collaboration with Pakistani smugglers, send locations through WhatsApp and other smart apps to bring Heroin and further supply the said Heroin, to the persons sent by the Pakistani smugglers and also after finding their own customers and send the earned money (Drug money) according to Pakistanis smugglers, through Naveen Bhatia allas Bobby son of Brij Lal resident of Amritsar, Sumit Sharma allas Shoke son Prem Kumar resident of Holly City, Amritsar to Pakistan, Dubai and other foreign countries. After taking the location sent by Naveen Bhatia and Sumeet Sharma, the said drug money is further deposited by Hardeep Singh @ Mintu Son of Dalbir Singh Resident of Amritsar and Karamjit Singh Son of Balwinderjit Singh Resident of Khasa Amritsar City. Even today both Surjit Singh alias Ganda and Gurlal Singh are bringing heroin and earned money (drug money) from Patti Side on their motorbike Splendor black in color, and if the barricading is done at a proper place then they both be nabbed with Heroin and drug money. The information seems to be accurate, solid and concrete, the offence at this stage falls under sections 21,27-A, 29/61/85 NDPS ACT, so the Rug after getting it typed and print it out is being sent to the Police Station through constable Sukhdeep Singh 783/TT for registration of the formal FIR. Register the case and inform about the case number. Special reports should be issued and sent to the service of the senior officers and the Ld. Magistrate, a report should be given to the control room, then I am proceeding towards the place disclosed by the informer for laying barricade after taking the information from informer about the appearances and description of Surjit Singh @ Ganda and Gurlal Singh and made him free and also shared the information with the accompanied police officials. Today in the Area of Patti turning point Sarhali Time:2:50 PM Sd/-Balwinder Singh SI, CIA Tarn Taran dated 15.09.2023.

3. Submissions

On behalf of the Petitioner

Learned counsel for the petitioner argues that the petitioner has been falsely implicated in the instant case wherein no specific overt act has been attributed to the petitioner nor any material evidence linking the petitioner directly or indirectly to the alleged offence has come on record.

Notice of motion.

On behalf of the State.

On the asking of Court, learned state counsel, who is present in the court accepts notice on behalf of respondent-State and at the very outset contends that the contraband recovered is 800 gm of heroin and Rs.17,80,000/- has been recovered from other co-accused which is way more higher than the commercial quantity. He further contends that on disclosure statement of accused Karanjit Singh, name of the petitioner has come up for being involved in supply of drugs and drug money so there are chances that the petitioner might tamper with the evidence therefore prays for dismissal of the instant petition.

Heard learned counsel for the respective parties at length.

4. Analysis

As a developing economy, India has multiple socio-economic challenges associated with Drug usage such as consumption of opium, hash and heroin which are of concern as India shares its borders with Seven countries which makes it porous for illegal drug trafficking.

The Attari-Wagah route between India and Pakistan is the most prominent route for the illegal trafficking for host of factors such as agricultural land, trains upto the borders and various riverine portions. This well oiled

machinery of drug circulation creates a massive illicit market, amplifies social conflict, breeds corruption and above all encourage drug consumption.

From the instant case it culls out that recovery of 800 gms of heroin and Rs.17,80,000/- allegedly have been recovered from co accused who have disclosed the name of the petitioner involved in supply of drug and drug money from Dubai.

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.

No person can be enlarged on bail for offences enumerated under Section 37 of the NDPS Act unless twin conditions embodied therein are satisfied. The finding mandated under Section 37 of the NDPS Act in this regard is a sine qua non for granting bail to the accused under the Act. Section 37 of the NDPS Act, which legislates the offences under the said Act to be cognizable and

non bailable and embodies the limitations on grant of bail for the specified offences, 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 subsection (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.”

Hon'ble Supreme Court has also held in ***State of Kerala Vs. Rajesh (SC) : 2020 (1) R.C.R.(Criminal) 818*** that in the matter of grant of bail in cases under the NDPS Act liberal approach is uncalled for.

Under Section 29 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, individuals can be prosecuted if they are found to be buyers of contraband, especially in the context of conspiracy or abetment related to drug

offenses. This section specifically addresses the penalties for those who assist or participate in a criminal conspiracy to commit an offense under the NDPS Act. The evidence presented in the trial court indicates that the petitioner was involved as a supplier in a conspiracy, which could invoke the provisions of Section 29 of the NDPS Act. This section emphasizes that "*whoever abets, or is a party to a criminal conspiracy to commit an offence*" is subject to punishment under this law. Buyers can be implicated under this section if there is adequate evidence demonstrating their involvement in a conspiracy related to drug trafficking.

An additional aspect that must be considered by this court is the frequent practice where individuals when implicated under Section 29 of the NDPS Act, assert that they were neither present at the scene nor had any contraband in their conscious possession. Taking advantage of this defense, many such accused persons are granted bail. However, this practice needs to be addressed, as individuals targeted under Section 29 of the NDPS Act are often the primary masterminds behind the drug trafficking networks, orchestrating operations from a distance while using others, typically those found in direct possession of the drugs, as scapegoats. Consequently, the court is of the firm opinion that in such cases, these individuals should be held equally accountable and should not be afforded any leniency.

5. **Conclusion**

From the facts of the instant petition coupled with the spectrum of menace rising in the society which is not only decaying the youth of the country but is also contributing in to deteriorate the economy of the country, the court is of the stern view drug peddlers should not be dealt with leniently.

In the light of above stated discussion, this court find it appropriate to dismiss the petition.

However, it is made clear that the observations made herein above shall have no bearing in the mind of the trial court while adjudicating the matter in accordance with law.

04.07.2025

Meenu (v)

(SANDEEP MOUDGIL)
JUDGE

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