



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

CRM-M-39655-2025

Date of decision: 26.08.2025

SURENDER KUMAR @ SONU

....Petitioner

Versus

STATE OF HARYANA

....Respondent

CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present:- Mr. Vipin Kumar, Advocate for
Mr. Amit Chaudhary, Advocate for the petitioner.

Mr. Neeraj Sheoran, Sr. DAG Haryana.

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RUPINDERJIT CHAHAL, J. (ORAL)

1. Through the instant petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS"), the petitioner seeks anticipatory bail in case FIR No.568 dated 24.12.2024 under Sections 20(b)(II)(c) of the NDPS Act (Sections 318(4) and 340(2) BNS added later on) registered at Police Station Sadar Fatehabad, District Fatehabad.

2. On 25.07.2025, following order had been passed: -

“ Instant petition is preferred under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking anticipatory bail in FIR No.568 dated 24.12.2024 under Section 20(b)(II)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Sections 318(4) & 340(2) of the Bharatiya Nyaya Sanhita, 2023 (added later on), registered at Police Station Sadar Fatehabad, District Fatehabad.

Learned counsel for the petitioner, inter alia, contends that admittedly, recovery of 25 kgs and 60 grams of ganja has been effected from the conscious possession of co-accused. The



petitioner has been nominated as accused on the basis of disclosure statement made by co-accused during his custodial interrogation, which has no evidentiary value in the eyes of law, as the same would be hit by Sections 25 & 26 of Indian Evidence Act, 1872 (now Sections 23(1) & 23(2) of Bharatiya Sakshya Adhiniyam, 2023). Further, the petitioner is having clean antecedents and is not involved in any other case.

Notice of motion for 26.08.2025.

*Keeping in view the ratio of law enunciated by the Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833**, the petitioner is directed to appear before Investigating Officer within a period of two weeks from today and thereafter, as directed by the Investigating Officer. In the event of arrest, the petitioner will be admitted to interim anticipatory bail on furnishing bail/surety bonds to the satisfaction of Investigating/Arresting Officer. The petitioner shall cooperate with the investigation/Arresting Officer and abide by the conditions as provided under Section 482(2) of BNSS (erstwhile Section 438(2) of the Code of Criminal Procedure, 1973).*

If the Arresting Officer does not permit the petitioner to join the investigation, he would appear before learned Illaqa Magistrate, who would then summon the Arresting Officer and direct him to join the petitioner in the investigation, in terms of the order of this Court.

Nothing observed hereinabove shall be construed as an expression of opinion by this Court and learned trial Court shall decide the case on its own merits, strictly in accordance with law."

3. Learned counsel for the petitioner submits that in compliance of the order dated 25.07.2025 passed by this Court, the petitioner has joined the investigation. He has further argued that there is no connection between the petitioner and co-accused and the petitioner is sought to be implicated only on the basis of disclosure statement.



4. Learned counsel for the State, on instructions from ASI Gurlal Singh, has submitted that the petitioner has joined the investigation and is no longer required for further investigation. He has further submitted that since the FIR in question is under the NDPS Act of 1985, the petitioner ought not to be extended the concession of anticipatory bail. However, he could not controvert the fact that except the disclosure statement of co-accused nothing is there to connect the petitioner with the recovered contraband.

5. I have heard learned counsel for the rival parties and perused the available record.

6. At this juncture, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court titled as '**Tofan Singh vs. State of Tamil Nadu, AIR 2020 Supreme Court 5592**', relevant whereof reads as under:

"155. We answer the reference by stating: (i) That the officers who are invested with powers under section 53 of the NDPS Act are "police officers within the meaning of section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act (ii) That a statement recorded under section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS ACT".

7. More recently, the Hon'ble Supreme Court in a judgment titled as '**Smt. Najmunisha, Abdul Hamid Chandmiya @ Ladoo Bapu Vs. State of Gujrat, Narcotics Control Bureau' 2024 INSC 290**', has reiterated the ratio decidendi of the judgment of Hon'ble Supreme Court in the case of Tofan Singh (supra).

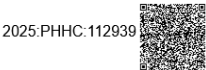


8. The Hon'ble Supreme Court while dealing with a plea for grant of anticipatory bail in a case under NDPS Act, 1985; in a judgment titled as '***Vijay Singh vs. The State of Haryana, bearing Special Leave to Appeal (Crl.) No.(s)1266/2023 decided on 17.05.2023***' has held as under:

"The petitioner is alleged to have committed offences under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter called the NDPS Act". His application for anticipatory bail was rejected by the High Court. The allegations in the FIR are that 1.7 Kg of Poppy Straw (Doda Post) was recovered from the co-accused. The petitioner concededly was not present at the spot but was named by the co-accused. That apart there is no other material to implicate the petitioner. The prosecution urges that another case with allegations of commission of offence under the NDPS Act are pending against the petitioner. It is not denied that in those proceedings he was granted bail. Having regard to these circumstances, the petitioner is directed to the enlarged on anticipatory bail, subject to such terms and conditions as the trial Court may impose. The petition is allowed. All pending applications are disposed of."

9. The petitioner is sought to be arrayed solely on the basis of disclosure statement of the co-accused. Suffice to say there is no other material available to connect the petitioner with the recovered contraband. The veracity of the disclosure statement made by the co-accused will be subject to comprehensive scrutiny during the course of the trial and same cannot be a ground to decline the concession of anticipatory bail to the petitioner especially when he has joined the investigation in terms of interim protection granted by this Court.

10. In view of the above, the interim order dated 25.07.2025 is made absolute. The petitioner shall continue to join investigation, as and



when called by the Investigating Officer and shall also abide by the conditions as provided under Section 482(2) of the BNSS.

11. Needless to say anything observed herein above shall not be construed to be an opinion on the merits of the case.

26.08.2025
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(RUPINDERJIT CHAHAL)
JUDGE

i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No