



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

CRM-M-42058-2025

Date of decision: 26.09.2025

GAURAV @ GOURAV

....Petitioner

Versus

STATE OF PUNJAB

....Respondent

CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present:- Mr. Manoj R. Sharma, Advocate
for the petitioner.

Mr. Ravinder Singh, DAG Punjab.

.....

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.179 dated 06.07.2025 under Sections 21(b) and 29/61/85 of the NDPS Act registered at Police Station Dinanagar, District Gurdaspur.

2. On 20.08.2025, following order had been passed: -

“ Prayer in the present petition filed under Section 482 of the BNSS, 2023 is for grant of anticipatory bail to the petitioner in case FIR No.179 dated 06.07.2025 registered under Sections 21(b) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Dinanagar, District Gurdaspur.

Status report has already been filed by learned State counsel.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and as per the case of the prosecution, on 06.07.2025, ASI Ramesh



Kumar along with other police officials was on patrolling duty and after receiving a secret information, apprehended one person, namely, Amar. After searching the said accused, 07 gram of heroin was recovered from his possession which falls under the non-commercial category.

Learned counsel has further argued that the petitioner has no concern with the crime in question and he has been nominated as an accused only on the basis of the disclosure statement made by co-accused Amar. Apart from the disclosure statement, there is no other evidence to connect the petitioner with the offence in question and it is a trite law that disclosure statement of the co-accused during his custodial interrogation is not admissible. It has also been contended that the petitioner was neither named in the FIR, nor any recovery was effected from him and he is ready and willing to join the investigation as and when called upon to do so by the investigating agency.

In support of his arguments, learned counsel for the petitioner has relied upon judgments of Hon'ble Supreme Court in the case of 'Vijay Singh Vs. State of Haryana', 2023 SCC Online SC 1235 and 'Shubham Bansal @ Shiv Kumar Bansal Vs. State of Punjab' passed in Criminal Appeal No.3033/2024, decided on 23.07.2024.

On the other hand, learned State counsel has opposed the prayer for grant of anticipatory bail. While referring to the status report, it is argued that the allegations levelled against the petitioner are serious in nature.

Adjourned to 26.09.2025.

In the meantime, the petitioner is directed to join investigation within a week from today and would appear as and when required by the Investigating Officer and cooperate with the Investigating Agency. In the event of arrest, he shall be admitted to interim bail on furnishing of bail/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as envisaged under Section 482(2) of BNSS, 2023."

3. Learned counsel for the petitioner submits that in compliance of the order dated 20.08.2025 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 Ramesh Kumar, 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 20.08.2025 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.

26.09.2025
puneet

(RUPINDERJIT CHAHAL)
JUDGE

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