

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45656-2024
Reserved on: 15.01.2025
Pronounced on: 27.01.2025

Ajay Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Argued by: Mr. Sandeep Godara, Advocate,
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
184	08.08.2024	Model Town, District Hoshiarpur	22 of the NDPS Act (Section 29 of the NDPS Act added subsequently.

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. The facts and allegations are taken from the reply filed by the State, which reads as follows:

2. That it is submitted that FIR No.184 dated 08.08.2024 U/s 22/61/85 of NDPS Act was registered at P.S. Model Town, Hoshiarpur on recovery of 15 grams intoxicants substance from the envelope thrown by accused Sohan Lal and on recovery of 20 grams intoxicants substance from the envelope thrown by accused Sandeep Kumar @ Raju.

3. That it is submitted that during the investigation, the accused Sohan Lal and accused Sandeep Kumar @ Raju suffered confession statements that they purchased the recovered intoxicants substance from the petitioner. On this, the petitioner was nominated in the present case and offence U/s 29/61/85 of NDPS Act was added to the present case vide DDR No.41 dated 10.08.2024.”

3. The petitioner's counsel prays for bail by imposing any stringent conditions and

contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

4. The State’s counsel opposes bail and refers to the reply.
5. It would be appropriate to refer to the following portions of the reply, which read as follows:

“4. That it is submitted that the FSL report in the present case has not been received so far. The police of P.S. Model Town, Hoshiarpur are conducting raids upon the house of the petitioner with a view to arrest him but the petitioner has absconded from his house fearing his arrest in the present case.”

6. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.
7. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for anticipatory bail. This order shall come into force from the time it is uploaded on this Court's official webpage.
8. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.
9. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

10. The bail order is subject to the petitioner’s complying with the following terms.
11. The petitioner is directed to join the investigation within seven days of uploading

this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

12. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

13. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

14. Notwithstanding anything stated above, if the contraband falls under the commercial quantity because of the laboratory report, then the petitioner shall be informed and supplied with a copy of the FSL report. He shall be granted 7 days to file another anticipatory bail application before the Sessions Court or this Court seeking bail for commercial quantity by meeting the rigors of S. 37 of the NDPS Act. The present bail order shall automatically stand recalled on the 8th day of the communication of the report of FSL to the petitioner.

15. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

16. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

17. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

27.01, 2025
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Whether speaking/reasoned: Yes
Whether reportable: No.