

2025:PHHC:102572



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

SR. NO.106

CRM-M-43099-2025

DATE OF DECISION:08.08.2025

RASHPAL SINGH ALIAS MADDI

...PETITIONER(S)

VERSUS

STATE OF PUNJAB

...RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. Kuldip Singh, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S. SHEKHAWAT, J.

The present petition has been filed under Section 482 of BNSS with a prayer to grant the concession of anticipatory bail to the petitioner in FIR No.89 dated 03.07.2025 under Section 21 of the NDPS Act (Section 29 of the NDPS Act added later on vide GD No.13 dated 06.07.2025) registered at Police Station Vairoke, District Fazilka.

The FIR in the present case was registered on the basis of statement made by Mahinder Singh, ASI and the same has been reproduced below:-

"Station House Officer, Police Station Vairoke. "Jai Hind". Today I ASI along with HC Kamaljit Singh No.798/PBI, PHG Satpal Singh No.7313, PHG Gurdeep Singh No.23093 along with laptop printer had boarded in Government vehicle Scorpio No.PB-65-BL-0389, whose driver is Constable Surinder Singh No.494/Fazilka, for patrolling and checking of suspicious

persons in the area of police station and when the police party was going to village Pali Wala from village Kathgarh while patrolling and when started crossing Semnala Chand Bhan bridge, a shorn haired person was seen coming on foot from the front. Who got scared seeing the police party vehicle, threw something in his left hand and walked quickly on the western side of the Semnala track. I ASI apprehended him on the basis of suspicion with the help of fellow employees and asked his name and address, who disclosed his name as Jatinder Singh @ Kaka @ Babbu son of Bachan Singh son of Balu Singh resident of village Pali Wala. On which, I ASI introduced myself to the apprehended person and told that I am ASI Mahinder Singh 446/Fazilka, posted as investigating officer at Police Station Vairoke. The name plate is affixed on my uniform and I suspect that there is some narcotic substance in your possession and in the object thrown by you. Due to which you and the object thrown by you have to be searched, but under the NDPS Act, you have the legal right to get yourself and the object thrown by you searched by any Gazetted Officer or Magistrate, who can be called or you can be taken to them. On which, the apprehended person said by way of giving his consent that whatever is there is bound to be found, you can search me and the object thrown by me. On which, I ASI prepared his consent memo under section 50 NDPS Act. Jatinder Singh @ Kaka @ Babbu and the witness affixed their signatures. Then I ASI tried to join a witness from the public before searching Jatinder Singh @ Kaka @ Babbu, and the object thrown by him but no one was ready. Then I ASI checked Jatinder Singh @ Kaka @ Babbu and object thrown by him in the presence of witnesses then heroin seen inside the transparent polythene bag was recovered and on searching accused Jatinder Singh alias Kaka @ Babbu and opening the brown cloth on his right shoulder, the money was found in the bag, which was found to be

Rs.1,40,000/-. Then I ASI weighed the recovered heroin on the computer scale from his investigating bag which comes to 20 grams along with transparent polythene bag. A separate parcel of the seized heroin was prepared and a separate parcel of the drug money was prepared by putting it in the same bag and both the samples were sealed with my seal 'MS'. One sample was prepared separately. The seal after use has been handed over to HC Kamaljit Singh 798/PBI. The personal search of Jatinder Singh @ Kaka @ Babbu was conducted, from which no mobile phone or any other valuables were recovered. On which, after preparing the personal search memo of Jatinder Singh @ Kaka @ Babbu, signatures of witnesses were taken. Videography and photography were done on the spot through E-SAKSHYA App. The accused Jatinder Singh @ Kaka @ Babbu has committed offence u/s 21/61/85 of NDPS Act by keeping heroin in his possession. On recording the ruqa against accused, it is being sent to police station through PHG Satpal Singh 7313 for registration of case. After registering the case, FIR number be intimated. PCR Fazilka be informed. Special reports be issued. I ASI along with fellow officials is busy in investigation on the spot. In the area of Bridge Semnala, village Kathgarh at 8:30 PM. Mahinder Singh ASI PS Vairoke dated 03.07.2025. Today at police station: On receipt of above said ruqa to police station, after registering the above said accused against accused under above offence, copy of FIR along with original ruqa is being sent on the spot to ASI through PHG. Special reports are being sent to Illaqa Magistrate and senior officers through S/C Sandeep Singh 1229/FZK. PCR/FZK is being informed through email.”

Learned counsel for the petitioner contends that as per the case set up by the prosecution, Jatinder Singh, co-accused, was apprehended by the police while he was carrying 20 grams of heroin without any permit or licence. He was also carrying a sum of Rs.1,40,000/- as drug money.

During the course of investigation, Jatinder Singh allegedly suffered a disclosure statement, who named the petitioner as an accused. Learned counsel next contends that in fact Jatinder Singh was inimical towards him and due to previous enmity, he had named the petitioner as one of the co-accused. Even the evidentiary value of the statement made by Jatinder Singh is very weak and the petitioner could not have been arrayed as an accused. He also submits that the petitioner is ready to join the investigation.

On the other hand, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner on the ground that the petitioner is a habitual offender and is also involved in one more case of similar nature, i.e. FIR No.27 dated 21.03.2025 under Section 21 of the NDPS Act at Police Station Vairo Ke. He next contends that the custodial interrogation of the petitioner is required to know the source of such contraband and to know the involvement of other accused. Learned State counsel has also relied upon the law laid down by the Hon'ble Supreme Court in the matter of **State of Haryana Vs Samarth Kumar, 2022(3) RCR (CrI.) 991**, wherein it has been observed as follows:-

“8. In cases of this nature, the respondents may be able to take advantage of the decision in Tofan Singh v. State of Tamil Nadu (supra), perhaps at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial.

9. To grant anticipatory bail in a case of this nature is not really warranted. Therefore, we are of the view that the High Court fell into an error in granting anticipatory bail to the respondents.”

From the perusal of record, the petitioner was found involved in one more case of similar nature as mentioned above. Further, now again,

during the course of investigation in the present case, the police has found sufficient incriminating evidence against the present petitioner. Thus, in the considered opinion of this Court, the custodial interrogation of the petitioner would be required to unmask the *modus operandi*, names of the other persons involved in the crime and the source of supply as well. Apart from that, the petitioner is also involved in one more case as noted above and thus, the petitioner does not deserve the concession of anticipatory bail.

In view of the above discussion, this Court finds no merit in the present petition and accordingly, the same is hereby dismissed.

(N.S. SHEKHAWAT)
JUDGE

08.08.2025
mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO