



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

221

CRM-M-63640-2025

Date of Decision: 09.12.2025

ROHIT

.....PETITIONER

Versus

STATE OF PUNJAB

..... RESPONDENT

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present Mr. S.K. Gupta, Advocate
 for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

1. For the commission of offence punishable under Sections 21(b), 27(a) [Sections 29, 61, 85 added later on] of Narcotic Drugs & Psychotropic Substances Act, 1985, hereinafter referred to as 'NDPS', the FIR No.105 dated 20.09.2025 has been lodged in Police Station Tibber, District Gurdaspur. Since the petitioner is apprehending arrest in the above-mentioned case, by virtue of present petition, the petitioner is seeking the benefit of anticipatory bail. The petitioner is claiming the above-said concession by invoking the provisions enshrined under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being on the report of ASI Rakesh Kumar, who had reported that on 20.09.2025, when he was leading a police team deputed for patrolling duty, he spotted a person, who was apprehended on the basis of his suspicious conduct. According to above-mentioned report the above-said



person disclosed his name as 'Ansh' and when the search of this person was conducted as per rules, he was found in possession of 10 grams of Heroin. It was further reported that on recovery of above-mentioned contraband, the requisite formalities with regard to seizure and sealing of contraband, filing of FIR and formal arrest of the accused were undertaken.

3. It is the case of the prosecution that during the course of investigation when the above-named accused was interrogated, he suffered a disclosure statement, wherein he nominated the present petitioner by stating that the above-mentioned contraband was sold to him by the petitioner.

4. Status report has been filed by learned State counsel. The same be taken on record.

5. Heard.

6. To deal with given fact-situation, the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Vijay Singh Vs. The State of Haryana' 2023 SCC Online SC 1235 are relevant. In the above mentioned case, the petitioner was not present on the spot at the time of recovery and he was implicated solely on the basis of statement of co-accused. The Hon'ble Supreme Court of India in the above mentioned case afforded the benefit of bail to the accused.

7. Similarly, in the case of 'Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence' 2018 SCC Online SC 757, it has been held by the Hon'ble Supreme Court of India that the disclosure statement of co-accused is inadmissible against another accused, as the disclosure statement is not a substantive piece of evidence against other accused.



8. Similar principle has been laid down by the Hon'ble Supreme Court of India in the case of 'Preet Kamal Vs. State of Punjab', 2018(4) RCR (Criminal) 938, wherein it has been held that the disclosure statement of an accused can be used only against the person making the same, and not against the co-accused.

9. In 'Tofan Singh Vs. State of Tamil Nadu', 2021(4) SCC 1 also, it has been observed by the Hon'ble Supreme Court of India that confessional statement of accused recorded under Section 67 of NDPS Act cannot be admitted in evidence, as a confession.

10. The record has been perused carefully.

11. A perusal of the record shows that there are several factors which are required to be taken into consideration at this stage. Those factors are:-

- i) that the recovery of contraband from accused Ansh is marginally above the upper threshold ment for small quantity and it is only a friction of lower limit prescribed for commercial quantity;
- ii) that nothing has been recovered from the possession of petitioner;
- iii) that custodial interrogation of the petitioner is not likely to serve any fruitful purpose;
- iv) that the petitioner has been implicated on the basis of disclosure statement suffered by co-accused. There is a big question mark with regard to credibility and admissibility in evidence of above-mentioned disclosure statement as it was suffered by the co-accused when he was already in police custody.
- v) that the investigation and trial of the case is not likely to be concluded in near future;



- vi) that there is nothing on record to show that if the benefit of anticipatory bail is afforded, the petitioner is likely to tamper with the evidence, or influence the witnesses;
- vii) that there is nothing on record to show that if petitioner is released on bail, he will not participate/co-operate in the trial.

12. As a sequel to above-mentioned observations, it is hereby held that the petitioner is entitled for the benefit of anticipatory bail and the present petition deserves to be allowed. Hence, the present petition is hereby allowed and it is hereby ordered that in the event of his arrest, the petitioner shall be admitted to anticipatory bail on furnishing bonds to the satisfaction of Arresting Officer. However, the above-mentioned benefit of anticipatory bail shall be subject to following conditions:

- a that the petitioner shall join the investigation as and when required by the investigating agency;
- b that he will not leave the country without prior permission of the Court;
- c that he will not influence the witness or interfere in the process of collection of evidence by the investigating agency; and
- d that he will abide by the conditions as specified under Section 482(2) of the BNSS.

13. The present petition stands allowed, accordingly.

(SURYA PARTAP SINGH)
JUDGE

09.12.2025 Whether speaking/reasoned Yes/No
vipin Whether reportable Yes/No