

2025:PHHC:179590



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-74064-2025
DECIDED ON: 31.12.2025

BHUPINDER SINGH

.....PETITIONER(S)

VERSUS

STATE OF PUNJAB

.....RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rajiv Kumar Saini, for the petitioner

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No. 93 dated 27.09.2025 under Sections 21(C) of NDPS Act and Sections 10, 11, 12 of Air Craft Act, 1934 and Section 29 of NDPS Act added later on, registered at Police Station Sarai, Amanat Khan, District Tarn Taran.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Office Of The Coy Comdr 'D' Coy, 115 BN BSF BOP-N/Dhalla No. Ops/D/115 Bn/FIR/2025/340 Dated 27 Sept 2025 to The Station House Officer Police Station Sarai Amant Khan Dist-Tarn Taran (Punjab) SUB LODGING OF FIR AGAINST UNKNOWN PERSONS PERTAINING TO RECOVERED 01 PACKET OF CONTRABAND ITEM On 27/09/2025 at about 1337 hrs an information regarding detection of drone movement (by CDS BOP Mohinder) was shared on

mobile to offg coy Comdr BOP N/Dhalla 115 Bn by CDS operator of BOP Mohinder-115 Bn BSF. However, he didn't share any deg and. Lat./ Long. He informed that drone movement was detected by CDS in AOR of BOP N/Dhalla at about 271337 hrs in alignment of BP No. 123/30, All OP/ Veh Ptig and depth Foot Ptig parties of BOP N/Dhalla and Unit QRT party were informed and alerted. On checking flight 24 radar app, no flight was detected at the time of incident. Suspected drone was returned at Pak territory at 1344 hrs. Insp Om Prakash Soni off Coy Comdr simultaneously informed the matter to Unit adjutant 115 Bn BSF. On Direction of Adjutant 115 Bn BSF, Offg Coy Comr immediately rushed to the spot. Meantime Punjab Police of PS- Sarai Amanat Kahan was also informed about the incident. Detailed search of area in alignment of BP No. 123/MP, was carried out by a party consisting Insp Om Prakash Soni offg Coy Comdr 'D' Coy along with 07 SOs and 20 ORs (including G rep) total 27 pers of BOP N/Dhalla and Unit QRT party. During the search operation, at about 271425 hrs, a suspicious packet wrapped in yellow adhesive tape was recovered from the paddy field of Satnaam Singh s/o Late Kashmir Singh r/o Naushera, PS S.A. Khan located approximately 800 meters from the International Border and 700 meters. from the BS fence, in reference to BP No. 123/MP. Further the recovered suspected pkt was brought to BOP N/Dhalla Ex- 115 BN BSF. Videography, weighing and detection of the recovered pkt took place in the presence of Police party from PS S.A. Khan The POO and surrounding area was thoroughly searched but nothing more items recovered from the search area. POO- Distance from IB-840 Mtr., Distance from BS Fence- 700 Mtr, Distance from Pak post Padhana-2400 Mtr., Distance from Own BOP N/Dhalla- 577 Mtr Lat. 31°484493 N Long 74. 695599 E Details of place of occurrence:- In the alignment of BP Ref Distance from IB Distance from BS Fence Distance from own BOP n/dhalla Distance from Pak Post Padhana GR OF POO Date & Time of Seizure Name of Seized Item Place of Seizure 123/MP 840 Mtr (approx) 700 Mtr (approx) -577 Mtr (approx) -2400 Mtr (approx) -Lat. 31.484493 N. Long 74.695599 E

27.08.2025 at about 1425 Hrs-01 packet of contraband item (Heroin) is approx 0.547 Kgs (including packing material) and the net weight is approx 0.510 Kgs. -In AOR of N/Dhalla in depth area of village Naushera Seizure memo of the recovery of 01 packet of heroine (contraband item) is enclosed. Therefore, it is requested that an FIR may be lodged against the unknown person regarding the above incident under the relevant provisions as per law. Investigation may be done at your end and outcome of the investigation may also be intimated to this HQ for our record and further necessary action.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the basis of disclosure statement of co-accused vide rapat No.17 dated 02.10.2025. He further submits that the recovery of contraband i.e., 510 grams of heroin alongwith 37 gm packing material was not effected from his conscious possession. He undertakes on behalf of the petitioner that he is ready and willing to join the investigation.

Notice of motion.

On behalf of the State/complainant

On the asking of Court, Mr. Rajiv Verma, Addl. AG. Punjab, accepts notice on behalf of respondent/State. He prays for dismissal of the present petition on the ground that the contraband i.e., 510 grams of heroin is commercial in nature, therefore, rigours of Section 37 of NDPS would be attracted in the present case. He further argued that the petitioner is a habitual offender, as he is involved in another case of similar nature.

4. Analysis

In everyday terms, the principle of law dictates that bail is the general rule, while jail is the exception. However, this Court acknowledges that the power to grant or deny bail is extraordinary and must be exercised with caution. It is well-established that when considering a bail application (whether pre-arrest or regular bail), the Court must form a *prima facie* opinion as to whether reasonable grounds exist to support the accusation, or if the accusation is frivolous and baseless possibly made with the intention of harming or humiliating the individual, or falsely implicating them in the crime. This evaluation must be conducted in light of the self-imposed restrictions and the broader legal parameters outlined.

The drug is a social malady, while drug addiction eats into the vitals of the society whereas drug trafficking not only eats into the vitals of the economy of a country, but illicit money generated by drug trafficking is often used for illicit activities including encouragement of terrorism. The devastating effects of narcotic drugs on any person who comes to its touch are too well known. Normally, such a person ceases to be a normal human being, and is more or less reduced to zombie living animal existences and rushing fast to meet the maker. Divine qualities of an individual who consumes narcotic drugs disappear and they are the first sacrifices one normally makes while falling prey to use of drugs. Anxiety of legislature is to prevent the adverse affect of such drugs and substances on the society.

In fact, the jurisdiction of the Court to grant bail is circumscribed by the provision of Section 37 of NDPS Act specifically observing that bail can be granted only if reasonable grounds are there to believe the innocence of the accused added with the fact that he is not likely to commit any offence while on

bail. The mandate as envisaged under section 37 of the NDPS Act needs to be followed which reads as under:

“37. Offences to be cognizable and non-bailable.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),— (a) every offence punishable under this Act shall be cognizable; (b) no person accused of an offence punishable for 3 [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless— (i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of subsection (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.”

Going a step further it is negative burden casted on the petitioner to disapprove the case of prosecution as per the mandate of Section 37 of the NDPS Act which discloses that the offences are cognizable and non-bailable.

5. **Conclusion:**

Adverting to the merits of the present case, it is evident that 510 grams of heroin was recovered, though not from the petitioner, but from the other co-accused persons, who have disclosed his name. Moreover, the quantity recovered is commercial in nature; therefore, the rigours of Section 37 of the NDPS Act are attracted in the present case. Furthermore, the petitioner is a habitual offender, as he is involved in another case of a similar nature. Hence, this Court is of the considered view that custodial interrogation of the petitioner is necessary.

In light of these concerns, the court, as the guardian of its citizens, deems it essential to take decisive action against such offenders, especially when the lives and futures of the nation’s youth are at stake. The drug epidemic must be tackled with the utmost seriousness. The illegal activities carried out by the individuals involved must be met with resolute measures. The intent of the legislature and the integrity of the rule of law must be preserved at all costs, and cannot be allowed to be undermined, irrespective of the quantity of drugs involved.

6. Decision

In the light of above, the petition stands dismissed with no order as to costs.

31.12.2025
Meenu

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned :Yes/No
Whether reportable :Yes/No