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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Decided on: 16.03.2026

Rahul

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. P.S. Sekhon, Sr. Advocate with
Mr. R.S. Gill, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

SANJAY VASHISTH, J. (ORAL)

1. Prayer in this petition, filed under Section 482 of the BNSS, 2023 (earlier Section 438 Cr.P.C.), is for grant of anticipatory bail to the petitioner, who has been booked in a criminal case arising out of FIR No.47 dated 09.02.2025, under Sections 20(b) (ii) (c) and 29 of the NDPS Act, 1985 at PS Tosham, District Bhiwani.

2. After hearing petitioner's counsel, on 07.04.2025, Coordinate Bench recorded its order as under:

“Reply filed on behalf of the State by way of affidavit of Jai Bhagwan, DSP, Siwani, Bhiwani is ordered to be taken on record along with Annexures R-1 and R-2.

Counsel appearing on behalf of the petitioner, inter alia, submits that the petitioner was not named in the FIR and later on, nominated as accused on the basis of the disclosure statement suffered by co-accused Naseeb, from whom the police recovered certain material weighing 2 kg 20 grams.

Counsel appearing on behalf of the petitioner further submits that the



*disclosure statement, if any, suffered by co-accused against the present petitioner is inadmissible in evidence in light of law laid down by Hon'ble Supreme Court in **Tofan Singh v. State of Tamil Nadu**, (2021) 4 SCC 1. It is further submitted that despite this, the petitioner is apprehending his arrest in the present case. Counsel for the petitioner further submits that as per FIR, recovered substance is charas/Sulfa. He further made statement that literal meaning of Sulfa is ganja and the commercial quantity of ganja starts above 20 kg. Further, till date, report of FSL is not received and thus, nothing specific is available on record to show that the contraband recovered from co-accused comes under commercial or non-commercial quantity as per provisions of the NDPS Act; that in the given circumstances, the petitioner may be granted concession of interim bail till receipt of report of FSL as the petitioner is already granted bail in one another case faced by him under NDPS Act wherein at present he is facing trial.*

State counsel on instructions from ASI Manjit Singh has not disputed the fact that report of FSL is still awaited in the present case wherein recovery was effected on 9.2.2025. State counsel further made statement that sincere efforts are going to be made on behalf of the State to get report of FSL at the earliest.

In view of above, the petitioner is hereby granted interim bail till the receipt of report of Chemical Examiner and he should join the investigation with the police and in case of arrest, he is to be released on interim bail by the investigating officer/arresting officer to his own satisfaction till the next date fixed in this case. The petitioner is also to abide by the conditions envisaged under Section 482 (2) of BNSS.

Now be listed on 28.5.2025.”

3. Continuing the submissions, learned senior counsel for the petitioner submits that the petitioner has joined investigation. Although as per FSL report now received, the recovered contraband is found to be *charas* and that way the same is commercial, which was recovered from the co-accused namely Nasib. Further submits that since petitioner has been made accused in the present case only on the basis of disclosure statement of co-accused Nasib and there being no other substantive evidence collected during investigation connecting his involvement in the present crime, he is ready to join investigation as is not required for custodial purpose. Further submits that the disclosure statement of co-



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accused is inadmissible as per law of evidence and no Court can hold any accused convict solely on the basis of disclosure statement of co-accused.

4. Learned State counsel on instructions from ASI Joginder Pal, submits that though investigation has been joined by the petitioner, however, on account of respite of FSL report now, he is required to join investigation once again.

5. Heard learned counsel for the parties and find that it is admitted position that the petitioner has already joined the investigation, who is involved only on the basis of disclosure statement, whether the allegations are true or false are yet to be determined. Moreover, it is heavily upon the prosecution to prove charges beyond doubt against him. The last objection of learned State counsel that petitioner should join investigation once again does not seem to be supported with any substantive reason, as on receipt of FSL report, for what purpose the joining of investigation once again would help prosecution because, it is only the class of contraband recovered that has been determined, and ultimately found to be charas/sulpha, weighing 2 Kg and 20 grams, which undoubtedly is commercial in nature.

6. Since, petitioner has already joined the investigation and custodial interrogation is no more required; ad-interim bail order dated 07.04.2025 passed by this Court is hereby made absolute. Accordingly, present petition is allowed.

7. The petitioner shall continue to join the investigation as and when required to do so and abide by all the terms and conditions laid down under Section 482(2) of BNSS, 2023.

8. However, present order would be subject to the submission of his passport to the Investigating Agency or to Court concerned, if he possesses, within



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a period of one week from today. Otherwise, he would submit an affidavit, disclosing the fact that he does not possess any passport.

9. It is clarified that in case, aforesaid condition is not complied with, this order would be considered as *non est* automatically.

16.03.2026
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(SANJAY VASHISTH)
JUDGE

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