



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-18064 of 2026

Date of Decision: 06.04.2026

Balwinder Singh alias Binder Singh alias Bindu

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Navinder Jit Singh Dandiwal, Advocate
for the petitioner(s).

Mr. Eklavya Darshi, Deputy Advocate General,
Punjab.

Surya Partap Singh, J.

1. This petition for anticipatory bail is the first petition filed by the petitioner under Section 482 of 'the Bharatiya Nagarik Suraksha Sanhita, 2023'. It has been filed with regard to a case arising out of FIR No. 337 dated 21.12.2025, for the commission of offence punishable under Section(s) 21 [Section 29 added later on] of 'the Narcotic Drugs and Psychotropic Substances Act, 1985' Police Station Dharamkot, District Moga, Punjab.

2. The FIR of this case came into being at the instance of 'ASI Kuldeep Singh' hereinafter being referred to as "complainant" only. It was reported by the above named police official that on 21.12.2025, he was leading a team of police officials deputed for patrolling duty. According to above named police official, during patrolling a reliable source gave him a

tip-off that 'Sukhwant Singh alias Sukha' was involved in the activities of selling 'Heroin' and that he was waiting for customers near Highway Bridge of village Chaudhariwala. As per above named police official, pursuant to above-mentioned information he conducted a raid and apprehended the above named person. According to above named police officer during search of the person of above named accused 10 grams of 'Heroin' was recovered.

3. It is the case of prosecution that pursuant to above-mentioned recovery, the requisite formalities with regard to seizure and sealing of contraband, filing of FIR and formal arrest of accused were completed and further investigation taken up.

4. According to prosecution, during the course of investigation when the above-named accused, namely 'Sukhwant Singh alias Sukha' was interrogated, he suffered a disclosure statement wherein he nominated the petitioner as the supplier of the contraband.

5. **Notice of motion.**

6. Since advance notice has already been served upon the State, Mr. Eklavya Darshi, Deputy Advocate General, Punjab accepts notice on behalf of respondent-State. Hence, service of notice upon the State is hereby dispensed with.

7. Heard.

8. It has been contended on behalf of petitioner that recovery from the co-accused, namely 'Sukhwant Singh alias Sukha' comes within the ambit of non-commercial quantity, and that nothing has been recovered from the possession of petitioner. It has also been contended by learned counsel for the petitioner that the petitioner is innocent who has been falsely

implicated in the present case by the co-accused. As per learned counsel for the petitioner, otherwise also the disclosure statement of co-accused is inadmissible in evidence, and that on the basis of above-mentioned disclosure statement no case against the petitioner is made out.

9. The learned State counsel has controverted the above-mentioned arguments. While referring to para 11 of the petition, it has been contended by the learned State counsel that the petitioner is having seven FIRs pending against him, and that out of above-mentioned seven FIRs, six are under the NDPS Act. According to the learned State counsel, in view of past conduct of the petitioner, he is not entitled for the benefit of anticipatory bail. The learned State counsel has further contended that to trace the source from where contraband was procured by the petitioner, his custodial interrogation is necessary.

10. The record has been perused carefully.

11. With regard to use of discretion for grant of anticipatory bail, the Hon'ble Supreme Court of India in the case of 'Srikant Upadhyay v. State of Bihar' 2024 SCC OnLine SC 282', has observed that power to grant anticipatory bail is extraordinary power, and that irrespective of the fact that in a number of cases, it has been held that bail is a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is a rule.

12. The Hon'ble Supreme Court of India in the above mentioned case has further observed that rule of anticipatory bail is a question of judicial discretion depending upon the facts and circumstances of each case. According to Hon'ble Apex Court, when called upon to exercise the above said power the Court concerned has to be very cautious, as the grant of

interim protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation.

13. The Supreme Court of India in the case of ‘Nikita Jagganath Shetty alias Nikita Vishwajeet Jadhav v. The State of Maharashtra and Another’ [Special Leave Petition (Criminal) No. 10255 of 2024, decided on 21.07.2024], has observed that anticipatory bail is an exceptional remedy and it ought not be granted in a routine manner. As per the Hon'ble Supreme Court, there must exist strong reasons for extending indulgence of this extraordinary remedy to a person accused of grave offence.

14. Similarly, in the case of ‘Gurbaksh Singh Sibbia etc. v. State of Punjab’ 1980 SCC (2) 565, the Hon'ble Supreme Court of India held that:-

- a) The power under Section 438, Criminal Procedure Code, is of an extraordinary character and must be exercised sparingly in exceptional cases only.
- b) In addition to the limitations mentioned in Section 437, the petitioner must make out a special case for the exercise of the power to grant anticipatory bail.
- c) Where a legitimate case for the remand of the offender to the police custody under Section 167(2) can be made out by the investigating agency or a reasonable claim to secure incriminating material from information likely to be received from the offender under Section 27 of the Evidence Act can be made out, the power under Section 438 should not be exercised.

15. Taking into consideration the fact that the investigation of the case is still at initial stage, and there is disclosure statement of co-accused against the petitioner and the petitioner has repeatedly been prosecuted for the commission of offence punishable under the NDPS Act, it is hereby observed that in order to find out the source from where he is procuring the above-mentioned contraband, his custodial interrogation is necessary.

16. In view of above-mentioned fact-situation it is hereby observed that at this stage, there is nothing on record to show that any compelling circumstance exists in the present case, which may warrant the exercise of extraordinary jurisdiction vested in this Court by virtue of Section 482 of BNSS. Hence, it is hereby observed that the present petition is devoid of merit and deserves dismissal. Thus, the present petition is hereby **dismissed**, accordingly.

17. It is, however, clarified that any observations made in the above-mentioned order shall not be construed as an expression of opinion on the merits of the case.

(Surya Partap Singh)
Judge

April 06, 2026

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No