



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

103

CRM-M-20543-2025

Date of decision: 17.04.2025

SAJAN SINGH

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM : HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Shubreet Kaur, Advocate
for the petitioner.

Mr. Jastej Singh, DAG, Punjab.

SANDEEP MOUDGIL, J.(ORAL)**1. Relief sought**

The jurisdiction of this Court has been invoked under Section 482 BNSS seeking pre-arrest bail in case FIR No.0028 dated 16.03.2025 (Annexure P-1), under Section 21 of NDPS Act (Section 29 of NDPS added later on), registered at Police Station Arniwala, District Fazilka.

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

“Station House Officer, Police Station Arni Wala "Jai Hind". Today I/ASI alongwith SC Baljit Singh No.255/Fazilka, PHG Sukhwinder Singh No.6835, PHG Om Prakash No.6918 in Government Vehicle bearing No.PB-22-F-3791, which is being driven by Constable Maha Singh No.208/Fazilka, had left for the area under Police Station Arni Wala in connection with patrolling and checking of suspected persons. While doing patrolling, when the police party reached from Link



Road, Arni Wala to the Ti-Point of village Tahli Wala Jatta to about half a killa forward from the Arni Wala side, then two hair-cut young men who were riding on a motorcycle came towards the police party from the Arni Wala side, who on seeing the police party. immediately started moving back the motorcycle. Then I/ASI with the assistance of accomplice employees asked them to stop. Thereafter, they got scared and they dropped down a transparent plastic envelope which they were holding in their hand. On this, I/ASI, on getting suspected, with the assistance of accomplices, caught hold of both the young persons and asked their names and addresses. The driver of the motorcycle told his name as Mohan Singh alias Mohani son of Jarnail Singh, resident of Backside Preet Palace, Arni Wala and the person sitting on rear side told his name as Shinda Singh alias Shinda son of Malkeet Singh, resident of Tibba Basti, Arni Wala. Thereafter, I/ASI while introducing himself and accomplice employees, told his name as S.I. Chander Shekhar. I am posted at Police Station Arni Wala. I and my accomplice employees have worn their uniforms as per their respective ranks, who are having name plates on the same. Thereafter, on getting suspected about any intoxicating substance in the plastic envelop dropped by the boys who were caught, I/ASI told them that the plastic envelop dropped by you is to be searched. However, as per the law framed regarding intoxicating substances, you have legal right that you can get the plastic envelop dropped by you searched in the presence of any Gazetted Officer or any Magistrate Sahib, who can be called on the spot upon request. On this, accused Mohan Singh alias Mohani and Shinda Singh alias Shinda above told in one loud voice that the material which is in the envelope will be found and we have trust on you and you only start search. On this, memos of



consent of both the persons were prepared separately. Mohan Singh alias Mohani signed in Punjabi on the fard and Shinda Singh alias Shinda appended his thumb impressions on the fard. Before undertaking search, witness from the public was tried to be included in the party but no one was ready. Then I/ASI took the plastic transparent envelop dropped by Mohan Singh alias Mohani and Shinda Singh alias Shinda above and saw after opening it, in which heroin was recovered. Thereafter, the recovered heroin was weighed on the computerized weighbridge, which came to be 20 grama including the envelope. On this, I/ASI prepared one pullanda after putting the recovered heroin in one plastic box and stamped the pullanda with his stamp worded as CS and specimen stamp was prepared separately and after usage the stamp was handed over to SC Baljit Singh No.255/Fazilka. The pullanda of recovered heroin weighing 20 grams duly stamped and specimen stamp were taken into police custody vide separate memo of recovery. The witnesses put their respective testimony on the memo. Mohan Singh alias Mohani and Shinda Singh alias Shinda above have committed offence under Sections 21/61/85 NDPS Act by keeping heroin in their possession, on which, after writing ruqa, the same was sent to the police station by hand through PHG Sukhwinder Singh No.6835 for registration of case against Mohan Singh alias Mohani and Shinda Singh alias Shinda above. After registration of case, case number be allotted to the same. Information be sent to the P.C.C. Fazilka. After issuing the special reports, the same be sent to the Illaqa Magistrate and higher officials. I/ASI alongwith accomplice employees are busy in conducting investigation on the spot. Sd/- Chander Shekhar, ASI, Police Station Arniwala dated 16.03.2025, under the jurisdictional area of Arni Wala at 05:25 PM.



Today at Police Station: Upon receipt of above ruqa by hand from PHG Sukhwinder Singh No.6835 at the police station, after registration of case against the aforementioned accused persons under the above said offences, copy of FIR alongwith the original ruqa is being sent to the ASI on the spot through PHG present by hand. After issuance of special reports, the same are being sent by hand through Lady Constable Surjeet Rani No.1304/Fazilka to the Illaqa Magistrate and higher officials. Information is being sent to the PCR Fazilka through e-mail.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that as per the prosecution story, the alleged contraband i.e. 20 grams of heroin was recovered from the co-accused namely Mohan Singh @ Mohani and Shinda Singh @ Shinda, the contraband recovered is non-commercial in nature. She further contends that having no direct evidence to connect the alleged recovered contraband measuring 20 grams of heroin and the petitioner has been nominated only on the disclosure statement jointly made by the co-accused namely Mohan Singh @ Mohani and Shinda Singh @ Shinda. She further contends that the petitioner is owner of a truck and has an alibi as he was in Una, Himachal Pradesh and the same can be corroborated via the parking slip dated 10.03.2025 issued at Una, Himachal Pradesh depicting that his vehicle of make Maruti Suzuki Ertiga bearing No. PB-65BC-5510 was located at Una and a copy of Indian Oil receipt dated 12.03.2025 (Annexures P-7 and P-8, respectively) has also been placed on record to further substantiate the alibi. Learned counsel vehemently prays that petitioner will join the investigation without any



delay and will assist with the investigating agency so that the final report is produced within the stipulated time period.

Notice of motion.

On behalf of the State

On the asking of the Court, Mr. Jastej Singh, DAG, Punjab accepts notice on behalf of the respondent-State, who does not controvert the aforesaid fact but opposes the grant of anticipatory bail to the petitioner by referring to the disclosure statement made by co-accused persons and read out the material part by arguing that the petitioner is the one who is providing the contraband to the co-accused persons who are merely labourers to sell the same on his behalf in the market. He submits that the petitioner along with his two brothers is a habitual offender being involved in many other NDPS cases.

4. **Analysis**

Be that as it may, considering the fact that the petitioner was nominated as an accused only on the basis of disclosure statement of co-accused Mohan Singh @ Mohani and Shinda Singh @ Shinda and was not initially named in the instant FIR; nothing has been recovered from the present petitioner as recovery of whatever contraband was effected was from other co-accused persons namely Mohan Singh @ Mohani and Shinda Singh @ Shinda and the contention of learned State counsel to the effect that the petitioner along with his two brothers is habitual offender being involved in NDPS cases is concerned does not carry much weight as the details furnished by ASI Angrej Singh would only show that petitioner has two brothers namely, Govinda and Raj Kumar @ Rajju. The details would further reveals that it is Govinda who is involved in two NDPS cases only



but other FIRs pertain to different offences but not NDPS Act. These are bearing FIR No.175 dated 14.12.20020, Police Station Arniwala and FIR No.230 dated 30.11.2023 Police Station City 1, Abohar. Apart from the above two FIRs neither the petitioner nor any of his brothers are found involved in any other NDPS cases. Otherwise also, for the offences being committed by brothers of the petitioner he cannot be made liable as the evidence in that FIR would only be used and can be decided by the trial Court only qua the accused persons in that FIR and not the present petitioner, who is not named in those FIRs as accused except the present FIR added to the fact that custodial interrogation of the petitioner is not required at this stage as nothing is to be recovered from him.

5. **Relief**

In the light of above, the petitioner is directed to be released on anticipatory bail subject to him joining investigation with the Investigating Officer concerned within a period of 10 days from today, on furnishing of personal/surety bonds to his satisfaction for the reason that custodial interrogation of the petitioner is not required as it would be of no fruitful purpose to put the petitioner behind the bars. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person



acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
(iii) a condition that the person shall not leave India without the previous permission of the Court;
(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within a period of 10 days and comply with the aforesaid condition under Section 482(2) of BNSS, 2023, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

17.04.2025

Nisha Yadav

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No