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2025:PHHC:043416



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

**CRM-M-17707-2025
DECIDED ON: 01.04.2025**

SULTAN SINGH

....PETITIONER

VERSUS

STATE OF PUNJAB

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Narender Sing Kamboj, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in F.I.R. No. 139 Dated 26.12.2024 under Sections 21(B)/29/61/85 of NDPS Act, Police Station Sarai Amant Khan, Tarn Taran.

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

“To, Chief Officer Police Station Sarai Amanat Khan Jai Hind, today including ASI Salwinder Singh 1386, ASI Sukhwinder Singh 222 by way of government vehicle Bolero number PB65 BF 1070 with driver ASI Karam Singh 631, For the reason of patrol and searches for suspicious men having laptops, printers, stationery and torches was going from the police station to village Sarai Amanat Khan, Havelia, Chhina

Biddhi Chand etc. When the police party stopped the vehicle and started the routine checking of vehicles at village Chhina Biddhi Chand. When a motorcycle HF Deluxe from village Buchar was riding. A Mullah fashioned person was seen coming who was asked by the ASI to stop with the light of a torch, the said motorcycle driver quickly stopped his motorcycle. He tried to turn back by applying the brakes, but during this attempt, the motorcycle fell on the side of the road and could not get up quickly. Then I ASI, with the help of fellow workers, went ahead and tried to control the said motorcycle driver without any suspicion. Meanwhile, the said person took out some weighty item from the front right pocket of the layer he was wearing and threw it across the road away from him, on which the ASI helped the said person along with the said motor cycle with fellow employees. He raised him on the ground and asked for his name, who told his name as Varinderpal Singh @ Varinder son of Dalbir Singh son of Massa Singh, resident of Chhina Biddhi Chand Police Station, Sarai Amanat Kha. When asked about the object, he said that I did not throw anything like that. On asking again, he said that there was medicine in the envelope which I had thrown away, but I ASI, on being asked by giving pressure, he said that the envelope which I threw out of my pocket contained heroin which I was going to sell on foot. I started to turn and run away, but due to the loss of balance, the motorcycle fell down and when I saw the police party coming towards me, I put it in my pocket in panic. He took out the heroin and threw it away, on which Virinderpal Singh, who was arrested by the ASI and with the help of his fellow employees, searched for the envelope thrown by Musami in the light of the torch. Taking the hand from the ground and presenting it to the ASI, he said that this is the same heroin which I had thrown on the ground beyond me out of fear of the police. I ASI opened the said wax envelope and checked Varinderpal but tried to form a police party with a public person as a witness, but due to the time of night and deserted road, no one could be found, So I

ASI said to Varinderpal. The wax envelope was opened and checked and heroin was found in the said wax envelope. The envelope contained a total of 192 grams of heroin, which was weighed, put the same in a plastic box and prepared a parcel, and sealed the parcel with its own seal letter SP by Man ASI and prepared a sample seal separately and completed the sample seal. 192 grams weighing 192 grams was seized by the police as evidence by separate individuals. ASI Salwinder Singh 1386/t. ASI has taken possession of Bramda motorcycle HF Deluxe number PB 46 Z 5688 in the possession of the Varinderpal Singh in the possession of the police through separate evidence, which the said Varinderpal Singh has committed the crime by keeping 192 grams of heroin in his possession. 21-B/61/85 of the NDPS ACT has been done, therefore Musammi has charged a crime against him Rukka through laptop but type and print out the case registered handily ASI Karam Singh is sent to 631 police station. It should be informed that due to chance recovery, Section 50 of NDPS ACT could not be fulfilled. Man ASI and other fellow employees have the opportunity to investigate the case. I belong to Haja.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner was nominated in the instant FIR only on the basis of disclosure statement of co-accused Varinderpal Singh @ Varinder, from whom the alleged recovery i.e. 192 grams of heroin was effected. He further contends that nothing has been recovered from the present petitioner, who is ready and willing to join the investigation and cooperate with the investigation officer concerned.

Notice of motion.

On behalf of the State

On the asking of the Court, Mr. Jaspal Singh Guru, AAG, Punjab accepts notice on behalf of the respondent-State, who submits that in the disclosure statement made by the main accused namely Varinderpal Singh @ Varinder, it has been stated that the alleged contraband was purchased from the present petitioner.

4. Analysis

As per the prosecution story, though no recovery was effected from the present petitioner, who was nominated in the present FIR on the basis of disclosure statement suffered by co-accused from whom 192 grams of heroin was effected, however, the role attributed to the petitioner is that he was the supplier of the alleged contraband that was recovered from the co-accused.

And now, he cannot take the plea that no recovery has been made from him as under Section 29 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, individuals can be prosecuted if they are found to be buyer or suppliers of the contraband, especially in the context of conspiracy or abetment related to drug offenses. This section specifically addresses the penalties for those who assist or participate in a criminal conspiracy to commit an offense under the NDPS Act. The evidence presented in relevant documents and the First Information Report (FIR) indicates that the petitioner was involved as a supplier in a conspiracy, which could invoke the provisions of Section 29 of the NDPS Act. This section emphasizes that *"whoever abets, or is a party to a criminal conspiracy to commit an offence"* is subject to punishment under this law. Buyers/suppliers

can be implicated under this section if there is adequate evidence demonstrating their involvement in a conspiracy related to drug trafficking.

An additional aspect that must be considered by this court is the frequent practice where individuals implicated under Section 29 of the NDPS Act assert that they were neither present at the scene nor had any contraband in their conscious possession. Taking advantage of this defense, many such accused persons are granted bail. However, this practice needs to be addressed, as individuals targeted under Section 29 are often the primary masterminds behind the drug trafficking networks, orchestrating operations from a distance while using others, typically those found in direct possession of the drugs, as scapegoats. Consequently, the court is of the firm opinion that in such cases, these individuals should be held equally accountable and should not be afforded any leniency.

Furthermore, the petitioner's criminal history, marked by involvement in one another case, raises serious concerns about the likelihood of reoffending. There is a distinct possibility that, if granted bail, the petitioner will once again partake in this unlawful enterprise. To grant bail at this stage would, in effect, subtly convey a tacit endorsement or unintentional encouragement of such nefarious activities.

5. **Relief**

In the light of above, discussions made and the modus operandi of the kingpins engaged in illicit activities, whether trafficking in small or intermediate quantities, must be met with unwavering resolve and stringent action. The intent of the legislature and the sanctity of the rule of law must

be upheld at all costs, and cannot be allowed to be undermined, regardless of the quantity involved.

Keeping in view the afore-said facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail.

Hence, the present petition is hereby, dismissed.

(SANDEEP MOUDGIL)
JUDGE

01.04.2025

Poonam Negi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No