



205

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

CRM-M-13977-2025

Date of decision: 05.04.2025

Kabir Khan

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Lakshay Bector, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

This petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking anticipatory bail in case bearing FIR No.10 dated 18.01.2025 (Annexure P-1) under Section 15 of NDPS Act (Section 29 of NDPS Act added later on) registered at Police Station City-II Khanna, District Ludhiana.

On 12.03.2025, the following order was passed:-

'Instant petition is preferred under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking anticipatory bail in FIR No.10 dated 18.01.2025 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') and Section 29 of NDPS Act (added later on), registered at Police Station City-II, Khanna, District Ludhiana.

Learned counsel for the petitioner, inter alia, contends that the petitioner is not named in the FIR (supra). Admittedly, nothing has been recovered from the conscious and exclusive possession of the petitioner. The recovery of 70 kilograms of poppy husk was effected from co-accused. The petitioner has been nominated as an accused only on the basis of disclosure statement made by co-accused while he was in police custody, which has no evidentiary value in the eyes of law, as such statement made by co-accused during custodial interrogation is hit by Section 25 of Indian Evidence Act, 1872 (now Section 23(1)(2) of Bharatiya Sakshya Adhiniyam, 2023). Further, there is no record of any financial transaction between the petitioner and coaccused. The petitioner is having clean antecedents and is not involved in any other case.

Notice of motion for 05.04.2025.

*Keeping in view the ratio of law enunciated by the Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others***



2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833, the petitioner is directed to appear before Investigating Officer within a period of two weeks from today and thereafter, as directed by the Investigating Officer. In the event of arrest, the petitioner will be admitted to interim anticipatory bail on furnishing bail/surety bonds to the satisfaction of Investigating/Arresting Officer. The petitioner shall cooperate with the investigation/Arresting Officer and abide by the conditions as provided under Section 482(2) of BNSS (erstwhile Section 438(2) of the Code of Criminal Procedure, 1973).

If the Arresting Officer does not permit the petitioner to join the investigation, he would appear before learned Illaqa Magistrate, who would then summon the Arresting Officer and direct him to join the petitioner in the investigation, in terms of the order of this Court.

Nothing observed hereinabove shall be construed as an expression of opinion by this Court and learned trial Court shall decide the case on its own merits, strictly in accordance with law.'

Learned State counsel on instructions from ASI Sukhwinder Singh, at the very outset informs the Court that the petitioner has joined the investigation and his custodial interrogation is not required.

In view of the statement of learned State counsel, order dated 12.03.2025 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 482(2) of BNSS (earlier Section 438(2) Cr.P.C.).

The petition stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

05.04.2025

Neha

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