



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

**CRM-M-13962-2025  
DECIDED ON: 17.03.2025**

**SANTOSH ALIAS BINDI ALIAS SANTOSH KUMAR  
.....PETITIONER**

**VERSUS**

**STATE OF HARYANA  
.....RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Hardeep Singh Kasan, Advocate  
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

**SANDEEP MOUDGIL, J (ORAL)**

1. **Relief sought**

The jurisdiction of this Court has been invoked under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 for grant of anticipatory bail to the petitioner in FIR No. 592 Dated 29.11.2024 (Annexure P-1) under Section 18 (b)-61-85 of NDPS Act, Police station City Hisar, District Hisar (Haryana).

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

*To ,Station House Officer, Police Station City Hisar, Today on 29.11.2024, I, ASI along with HC Surendra 1374/HSR, SI. Arun 1651/HSR, along with my personal laptop and printer were patrolling for crime detection and were present near Padav Chowk, Hisar, when a special informer met and informed that Dharmendra son of Tekchand, resident of Gali no. 3, Vinod*

*Nagar, Millgate, Hisar, who deals in narcotics, is now wearing a grey Coloured round neck T-shirt with white and black stripe and black pants, present near Guru Dev Car Disposal Spare Parts Shop no. 3, near Auto Market, Hisar Gate no. 1, where a board with number 955 is installed is standing near a I20 car bearing number HR 51AQ 6090 of Silver Colour is carrying narcotics in a backpack. Dharmendra is trying to sell the above mentioned narcotics to someone. If a quick raid is conducted, then Dharmendra can be caught with a huge quantity of narcotics. On being convinced of the information, ASI prepared a separate notice U/S 42 NDPS Act and sent it to the police station for information to the, Police Station City Hisar, through SI Bittu 1635/HSR and got the report registered in the daily diary register Seniors have been informed about the information. Thereafter, I ASI along with my fellow staff in a government vehicle reached at the place, near Auto Market Hisar, Gate No. 1, near Gurudev Car Depot Spare Parts which was told by the informer. On the signboard of this shop, Gurudev Car Depot Spare Parts Shop No. 3, the number 955 is written on an iron container. In front of this shop, a car no. HR 51AQ 6090 brand I20 colour silver was seen parked and a person on the driver's side was found standing near the car side who was wearing a grey colour round neck T-shirt with white and black stripes and black colour pants and had a grey coloured backpack on his back as told by the informer. He suddenly started running on seeing the police vehicle. I ASI got down from the vehicle and with the help of fellow staff controlled him and asked his name and address. He told his name as Dharmendra son of Tekchand resident of Gali number 3 Vinod Nagar Millgate, Hisar, age 40 years. After that I, ASI as per rules gave a notice under section 50 of NDPS Act that "I am ASI, Jaibeer 100/HSR, Special Staff posted in Hisar as an investigator. I have introduced myself and my entire team to you Dharmendra son of Tekchand resident of Gali no. 3 Vinod Nagar Millgate Hisar by showing my police ID card and through notice. Informs you that I suspect you to have narcotics. Therefore, you, the backpack in your possession and your car*

*no. HR 51AQ 6090 brand I20 Colour Silver are to be searched. As per the given provision in NDPS Act, you have the legal right that if you want to have yourself, your backpack and your vehicle searched in the presence of a nearest Magistrate or a Gazetted Officer, he can be called on the spot or you along with your backpack and vehicle can be taken to the nearest Magistrate or a Gazetted Officer for search. You should clarify your position regarding the search." Notice under Section 50 NDPS Act was prepared on which suspect Dharmendra and witnesses HC Surendra 1374/HSR and Si. Arun 1651/HSR signed. After thinking for a while, suspect Dharmendra got his reply written as per Notice under Section 50 NDPS Act that "I am Dharmendra son of Tekchand resident of Street No. 3 Vinod Nagar Millgate Hisar. You ASI Jaibeer 100/HSR Special Staff, Hisar has shown me your police ID card and introduced yourself and the entire team. I have read and understood the Notice under Section 50 NDPS Act thoroughly and got my reply written that I want myself, my backpack and car no. HR 51AQ 6090 brand I20 Colour Silver to be searched on the spot in front of a gazetted officer. You call a gazetted officer on the spot. Reply Notice under Section 50 NDPS Act was written as per the information given by suspect Dharmendra. Reply notice under section 50 of NDPS Act was prepared on which suspect Dharmendra and witnesses HC Surendra 1374/HSR and SI. Arun 1651/HSR put their signatures. Then from my mobile no. 9728042555, as per the list of gazetted officers issued by Deputy Commissioner Hisar in relation to NDPS Act, at about 1:40 P.M contacted gazetted officer Shri Rakesh Malik Tehsildar Hisar was contacted on 8901320203 and explained the situation and requested him to come to the spot, then he told that I am in a meeting. I am reaching the spot after finishing the meeting. At 3.10 PM, Constable. Bittu 1635/HSR after entering the report in daily dairy register of city police station Hisar came to the spot, who brought the report number*

18 dated 29.11.2024 entered at 14.40 hrs and presented it to me, which was kept. After waiting, gazetted officer, Shri Rakesh Malik Tehsildar Hisar appeared on the spot at around 3.30 PM. The search was started in the presence of independent witnesses Bhagat Singh son Santlal resident village Dhani Shobha, Tehsil Hansi District Hisar and Radheshyam son Poluram resident village Bahbalpur District Hisar. I ASI gave my mobile to Constable Bittu 1635/HSR and instructed him to do videography. I ASI verbally told the Tehsildar sahab about the situation and presented the notice and reply notice under section 50 NDPS Act. Who saw the notice and reply notice under section 50 NDPS Act. I, ASI offered the gazetted officer Shri Rakesh Malik, Tehsildar Hisar to search me and my entire team. Who personally searched me and my team. During the search no narcotic substance was recovered from me or any member of my team. The report of search was found to be non-recovery was prepared. On the report of search, suspect Dharmendra and witnesses HC Surendra 1374/HSR and C Arun 1651/HSR put their respective signatures. Tehsildar sahab verified the report. Then Tehsildar sahab directed me ASI to search Suspect Dharmendra, his backpack and car no.HR 51AQ 6090 make I20 silver colour as per rules. On which, ASI carried out the search of suspect Dharmendra and during the search, 14 silver coloured waxy polythene bags were found in the backpack in possession of suspect Dharmendra. When they were checked one by one by cutting them with a blade, then narcotic substance opium was found in all the 14 polythene bags. When the recovered opium was weighed along with 14 polythene bags, the total weight of opium along with the polythene bags was 06 kg 384 grams. During the search, no narcotic substance was found in car no. HR 51AQ 6090. The recovered opium 14 from polythene bags was put in a plastic jar and a parcel was prepared. The recovered backpack of grey colour was put in a separate plastic jar and converted into a parcel. Both the parcels have been sealed by putting 1-1 seal of J.S. Sample seal was prepared separately. Gazetted officer Shri Rakesh Malik, Tehsildar Hisar, put his seal of KS on both the parcels. Sample

*seal was prepared separately. The recovered opium backpack bag, car no. HR 51AQ 6090 make I20 silver colour were taken into police custody as evidence as per seizure Memo. On the seizure memos, the above mentioned accused Dharmendra and witnesses HC Surendra 1374/HSR, C. Arun 1651/HSR and independent witnesses Bhagat Singh and Radheshyam put their respective Signatures. Tehsildar sahab has verified the seizure memos. After use, Tehsildar sahab kept the seal with himself. After use, me, ASI handed over the seal to HC Surendra 1374/HSR. Since the above mentioned accused Dharmendra has committed the crime under section 18b-61-85 of NDPS Act by keeping illegal opium weighing 06 kg 384 grams in his possession, on which the C. Bittu 1635/HSR is being sent to Hisar city police station for getting the case registered. After, registration of FIR, its number the accused should be informed. Special report of the case should be sent to the higher officials. For further investigation, another investigator be sent to the spot. I am present at the spot along with my ASI, fellow employees, accused Dharmendra, recovered case property and independent witnesses.”*

### **CONTENTIONS**

#### **ON BEHALF OF THE PETITIONER:**

3. It is contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case on the basis of disclosure statement of co-accused Dharmender. He further argues that as per the prosecution version, the petitioner had shared a screenshot of UPI payment of Rs.90,000/- from his mobile no. 9000017005 to the mobile no. of co-accused Rajesh and Ashish but there is no shadow of evidence to connect the petitioner with the alleged occurrence wherein the petitioner is using only one mobile no. i.e. 7056302100 and no such amount has ever been deducted from

the bank account or any UPI account of the petitioner. Further, the petitioner is ready and willing to join the investigation and cooperate the same.

Notice of Motion.

**ON BEHALF OF RESPONDENT-STATE:**

4. On the asking of the Court, Mr. Chetan Sharma, DAG Haryana, who is present in Court, accepts notice on behalf of the State and submits that as per the ongoing investigation, the name of the petitioner has come up on the basis of disclosure statement of main accused I.e Dharmendra who was arrested while in possession of 06.384 Kg of opium stating that he had procured the contraband from the petitioner. Thus, on these grounds the bail application is liable to be dismissed as the custodial interrogation of the petitioner is necessary to complete the chain of events and also to reveal the nexus of drug dealers operating in the concerned area. He further adds to submit that that one more FIR No.258 dated 04.08.2017 under section 20 of NDPS Act 1985 at Police Station Hisar has been registered against him which makes it evident that the petitioner is a habitual offender.

5. Heard learned counsel for the parties at length.

**ANALYSIS AND CONCLUSION**

6. Be that as it may, after considering the submissions made herein above and on perusal of the assertions made in the petition as well, this court is of the firm view that custodial interrogation of the petitioner is required particularly in view of the fact that serious overt act has been attributed to the petitioner wherein he is allegedly involved in drug smuggling where there is also a record of money which has been transferred by the petitioner to the account of suppliers namely Rajesh and Ashish added with the fact that he is involved in one more case under NDPS Act, 1985 therefore in light of that, the

court by no stretch of imagination is inclined to grant the relief of anticipatory bail to the petitioner.

Moreover, it is settled proposition of law that power exercisable under Section 482 BNSS, is somewhat extraordinary in character and it is to be exercised in exceptional cases. In State of *Andhra Pradesh vs. Vimal Krishna Kundu*, AIR 1997 SC 3589, Apex Court has held that in case of well orchestrated conspiracy, if the accused is equipped with anticipatory bail order before interrogated by police, would greatly harm the investigation and would impede the prospects of unearthing all the ramification involved in the conspiracy. Similarly, in *Ram Govind Upadhyay versus Sudarshan Singh*, (2002) 3 SCC 598, it has been observed as under:

*“3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.”*

7. In view of the seriousness of the allegations, the custodial interrogation of the petitioner is certainly required to bring the true picture to the ground regarding recovery of alleged contraband and the transfer of the

amount. Therefore, I find no merit in the petition and the same is hereby dismissed.

8. However, it is made clear that the observations made herein above shall have no bearing in the mind of the court while deciding the matter in accordance with law.

**17.03.2025**

*Poonam Negi*

**(SANDEEP MOUDGIL)  
JUDGE**

*Whether speaking/reasoned* : *Yes/No*

*Whether reportable* : *Yes/No*