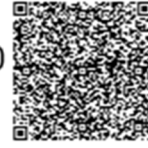


**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

2025:PHHC:078470



(216)

**CRM-M-28094-2025
Decided on :03.07.2025**

SARABJEET SINGH

.....Petitioner(s)

Versus

STATE OF PUNJAB

.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE SUMEET GOEL

Present:- Mr. Gaurav Goyal, Advocate for the petitioner.

Mr. Jaypreet Singh, DAG, Punjab.

SUMEET GOEL, JUDGE

1. Present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail to the petitioner in FIR No.16 dated 03.03.2025 under Sections 21, 25 and 29 of the NDPS Act, 1985 registered at Police Station Maur, District Bathinda.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:

“SHO P.S. P.S. Maur, Fateh, today I ASI alongwith ASI Gurcharan Singh 1231/Bathinda, Ct. Harinder Singh 1830, RCT Pardeep Singh 290 alongwith laptop and printer were going towards Kotli Khurd for checking of suspicious persons on Govt. vehicle PB-65-BG-8374 whose driver is CT Harjinder Singh and after 2 kms one Bullet motorcycle no. PB-65-AR-6628 tried to turn back after seeing the police party who were apprehended by the police party and the driver disclosed his name as Gurtej Singh @ Teji s/o Ajaib Singh and the another person disclosed his name as Harpreet Singh @ Gagra s/o Baldev Singh. Then I ASI introduced myself to the said persons and told

them that I have suspicion of some intoxicant substance with them and thus their search is to be conducted and they were made aware of their legal right and separate notices u/s 50 of NDPS Act were issued to them. After getting consent from them and after preparing consent memos search was conducted and on search 25 grams of Heroin was recovered from the pocket of Lower of Gurtej Singh and nothing was recovered from Harpreet Singh. Memos were prepared and case property and motorcycle was taken into police possession. Accused by keeping Heroin in their possession has committed an offence of 21, 25 of NDPS Act and thus ruga against Gurtej Singh and Harpreet Singh is sent to police station. After registration of FIR its number may be given. Special reports may be issued. I alongwith my police party at spot, Kotli Khurd At:03:15 PM SD/- Jasvir Singh ASI, PS Maur, Bathinda dated 03.03.2025.”

3. On 29.05.2025, the following order was passed:

“ASI Mandar Singh, Investigating Officer of the case is present.

2. Reply not filed. Be filed on the next date of hearing.

3. Heard. Record perused.

4. A perusal of record would reveal that there is nothing substantive on record as of now against the petitioner except for disclosure statement made by the co-accused, namely Gurtej Singh @ Teji and Harpreet Singh from whom recovery of 25 grams of heroin had been allegedly effected.

5. Be it the case, without commenting on the merits, the petitioner is directed to join the investigation within seven days from today and in the event of his arrest, he is ordered to be released on interim bail on his furnishing personal/surety bonds to the satisfaction of the Arresting Officer/Investigating Officer. He shall also abide by conditions as envisaged under Section 482(2) of BNSS, 2023.

6. List on 03.07.2025.

7. Investigating Officer of the case to remain present in Court along with record on that date.”

4. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further argued that there is no link or connection between the petitioner and the co-accused (from whom the contraband is alleged to have been recovered) and the

petitioner is sought to be implicated only on the basis of disclosure statement of the co-accused from whom the contraband is alleged to have been recovered. Learned counsel has further submitted that petitioner has joined the investigation and has cooperated therein. On the strength of these arguments, learned counsel has sought for grant of anticipatory bail to the petitioner.

5. Learned State counsel (on instructions from ASI Mander) has submitted that the petitioner has joined investigation in terms of interim order/protection earlier afforded to the petitioner and is not required for custodial interrogation. He has, however, submitted that since the FIR in question is under NDPS Act of 1985, the petitioner ought not to be extended the concession of anticipatory bail.

6. I have heard learned counsel for the rival parties and have perused the available record.

7. Before delving further into the merits of the case in hand, it would be profitable to refer herein to a judgment passed by this Court in the case titled as ***Ashu Vs. State of Punjab(CRM-M-54032-2024)***, which reads as under:

“7. At this juncture, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court titled as ‘Tofan Singh vs. State of Tamil Nadu, AIR 2020 Supreme Court 5592’, relevant whereof reads as under:

"155. We answer the reference by stating: (i) That the officers who are invested with powers under section 53 of the NDPS Act are "police officers within the meaning of section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act (ii) That a statement recorded under section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act"

More recently, the Hon'ble Supreme Court in a judgment titled as ‘Smt. Najmunisha, Abdul Hamid Chandmiya @ Ladoo Bapu Vs. State of Gujrat, Narcotics Control Bureau’ 2024 INSC 290’, has

reiterated the ratio decidendi of the judgment of Hon'ble Supreme Court in the case of Tofan Singh (supra).

7.1 Further, the Hon'ble Supreme Court; while dealing with a plea for bail in a case under NDPS Act, 1985; in a judgment titled as 'State by (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta & Anr.', 2022(1) RCR (Criminal) 762, has held as under:

"9. Having gone through the records alongwith the tabulated statement of the respondents submitted on behalf of the petitioner-NCB and on carefully perusing the impugned orders passed in each case, it emerges that except for the voluntary statements of A1 and A2 in the first case and that of the respondents themselves recorded under Section 67 of the NDPS Act, it appears, prima facie, that no substantial material was available with the prosecution at the time of arrest to connect the respondents with the allegations levelled against them of indulging in drug trafficking. It has not been denied by the prosecution that except for the respondent in SLP (Crl.) No. 1569/2021, none of the other respondents were found to be in possession of commercial quantities of psychotropic substances, as contemplated under the NDPS Act.

10 It has been held in clear terms in Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1, that a confessional statement recorded under Section 67 of the NDPS Act will remain inadmissible in the trial of an offence under the NDPS Act. In the teeth of the aforesaid decision, the arresis made by the petitioner NCB, on the basis of the confession/voluntary statements of the respondents or the co-accused under Section 67 of the NDPS Act, cannot form the basis for overturning the impugned orders releasing them on bail. The CDR details of some of the accused or the allegations of tampering of evidence on the part of one of the respondents is an aspect that will be examined at the stage of trial. For the aforesaid reason, this Court is not inclined to interfere in the orders dated 16th September, 2019, 14th January, 2020, 16th January, 2020, 19th December, 2019 and 20th January, 2020 passed in SLP (Crl.) No Diary No. 22702/2020, SLP (Crl.) No. 1454/2021, SLP (Crl.) No. 1465/2021, SLP (Crl.) No. 177374/2021 and SLP (Crl.) No. 2080/2021 respectively. The impugned orders are, accordingly, upheld and the Special Leave Petitions filed by the petitioner-NCB seeking cancellation of bail granted to the respective respondents, are dismissed as meritless."

7.2 Still further, the Hon'ble Supreme Court; while dealing with a plea for grant of anticipatory bail in a case under NDPS Act, 1985; in a judgment titled as 'Vijay Singh vs. The State of Haryana, bearing

Special CRM-M-54032-2024 (O&M) Leave to Appeal (Crl.) No.(s) 1266/2023 decided on 17.05.2023', has held as under:

"The petitioner is alleged to have committed offences under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter called the NDPS Act". His application for anticipatory bail was rejected by the High Court. The allegations in the FIR are that 1.7 Kg of Poppy Straw (Doda Post) was recovered from the co-accused. The petitioner concededly was not present at the spot but was named by the co-accused. That apart there is no other material to implicate the petitioner. The prosecution urges that another case with allegations of commission of offence under the NDPS Act are pending against the petitioner. It is not denied that in those proceedings he was granted bail.

Having regard to these circumstances, the petitioner is directed to the enlarged on anticipatory bail, subject to such terms and conditions as the trial Court may impose.

The petition is allowed.

All pending applications are disposed of."

7.3 It is a well established principle of law that at the incipient stage of investigation, when the investigation is still ongoing, the Court must restraint and refrain from undertaking a meticulous examination of evidence collected thus far. The process of investigation is dynamic, and evidence may evolve or be corroborated, as the investigation progresses. However, as anticipatory bail pertains to life and liberty of individual, courts are obligated to strike a balance between safeguarding personal liberty and ensuring the effective administration of justice as also investigation.

The final evidentiary value and admissibility of the disclosure statement made by a co-accused fall within the domain of the trial Court and are to be adjudicated during the course of the trial in accordance with established principles of law. However, while adjudicating a plea for anticipatory bail, this court cannot remain oblivious to the circumstances under which the petitioner has been arraigned or implicated, including the nature of the allegations, the evidence linking the petitioner to the offence as well as the specific role attributed to the petitioner in the commission of the alleged offence. A prima facie examination of these factors is essential to ensure that the process of law is not misused, abused or misdirected."

8. Reverting to the facts of the case in hand, the petitioner is sought to be arraigned as an accused in the FIR in question, solely, on the basis of disclosure statement made by co accused from whom there is recovery of contraband. As per the prosecution version, there is no other material available to connect the petitioner with the contraband in question. It is not in dispute that the petitioner was not present at the spot. The veracity and weightage required to be attached to the disclosure statement made by the co-accused will be fully tested at the time of trial. However, the same cannot be construed as sufficient by itself to decline the concession of anticipatory bail to the petitioner especially when the petitioner has joined the investigation in terms of the interim protection earlier afforded by this Court and has cooperated therein.

The petitioner is stated to be involved in seven other cases under NDPS Act, 1985 but, in the considered opinion of this Court, the factum of petitioner being involved in other criminal cases would not be a reason, sufficient by itself, to decline the concession of anticipatory bail to the petitioner qua the FIR in question especially when the petitioner has been able to make out a case for grant of anticipatory bail in the FIR in question on merits thereof.

9. In view of above, the petition is allowed and interim order dated 29.05.2025 passed by this Court is made absolute, subject to the conditions as enumerated under Section 482(2) BNSS, 2023.

10. This order should not be treated as “blanket” order. It will not be interpreted as granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

11. Liberty is reserved in favour of State to move for cancellation/recall of this order in case the petitioner violates any condition

stipulated under Section 482(2) BNSS, 2023 or upon showing any other sufficient cause.

12. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.

13. Pending applications, if any, shall also stand disposed off.

July 03, 2025
Naveen

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No