

2025:PHHC:081061



213.

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

CRM-M-12998-2025

Date of decision: 08.07.2025

Makul @ Mohamad Makul

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sunil Panwar, Advocate, for the petitioner.

Mr. Rajat Gautam, Addl. A.G., Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of anticipatory bail, under Section 482 of BNSS, 2023, in case FIR No.402, dated 16.11.2024, under Sections 21(c) and 29 of NDPS Act, registered at Police Station Ferozpur Jhirka, District Nuh.

2. On the last date of hearing i.e. 07.03.2025, while noticing the following submissions made by the learned counsel for the petitioner, this Court had granted the concession of interim bail to the petitioner and asked him to join investigation:-

“Learned counsel for the petitioner, *inter alia*, contends that the false implication of the petitioner in the FIR in question is evident from the fact that firstly he has no previous criminal antecedents much less ever having been involved in a case under the NDPS Act; no secret information was received qua the involvement of the petitioner in drug trafficking even though a specific secret information had been received qua

prime accused Mustaq Ahmed from whom a recovery of 1499 bottles of codeine cough syrup were allegedly made; on being arrested, prime accused Mustaq Ahmed allegedly suffered a disclosure statement nominating one Javed Khan as the purported supplier of the recovered contraband. It has been asserted by the learned counsel that prime accused Mustaq Ahmed had not even by way of a whisper claimed that the petitioner was in any manner involved in the supply of the recovered contraband. However, strangely after two months of the alleged recovery i.e. on 06.01.2025, Javed Khan suffered a disclosure statement, wherein for the first time, he nominated the petitioner as an accused and the purported supplier of the codeine cough syrup, which had been supplied by him to the prime accused.”

3. Learned counsel for the petitioner submits that in compliance with the order dated 07.03.2025, the petitioner has duly joined the investigation and has extended full cooperation to the Investigating Officer. It is, therefore, prayed that the interim order dated 07.03.2025 be made absolute.

4. *Per contra*, learned State counsel, on instructions, does not dispute that the petitioner has, in fact, joined the investigation pursuant to the order of this Court. However, it is submitted that the petitioner has not fully cooperated with the Investigating Agency in as much as he has failed to disclose the source from whom he was allegedly procuring the recovered contraband, cough syrup, as well as the identities of other individuals allegedly involved in the offence. A prayer has, therefore, been made for dismissal of the instant petition as the custodial interrogation of the petitioner would be warranted.

5. I have heard learned counsel for the parties and perused the material placed on record.

6. At the outset, it is not in dispute that the petitioner has duly joined the investigation in terms of the directions issued by this Court vide order dated 07.03.2025. The sole basis on which the State is seeking custodial interrogation of the petitioner is the alleged non-disclosure by the petitioner of certain facts, which, as per learned State counsel amounts to non-cooperation.

7. However, mere silence or failure to make self-incriminating disclosures cannot be equated with non-cooperation warranting custodial interrogation. The right against self-incrimination is a constitutionally protected facet of personal liberty, and any demand for custodial interrogation merely to compel such disclosures stands on precarious legal footing.

8. It is well settled by the Hon'ble Supreme Court that the purpose of joining investigation is to make oneself available to the Investigating Agency and to respond to lawful queries, and not to compulsorily divulge self-incriminating information.

9. In the present case, the conduct of the petitioner in appearing before the Investigating Officer and responding to the investigation satisfies the legal standard of cooperation.

10. In the light of the above, this Court does not find any compelling ground to justify custodial interrogation of the petitioner more so when concededly he has no previous criminal antecedents.

11. Accordingly, the instant petition is allowed and interim order dated 07.03.2025, is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C./482(2) of BNSS, 2023.

12. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

July 08, 2025
sanjeev

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No