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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47746-2025
DECIDED ON: 16.09.2025

DAVINDER SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. J.S.Thakur, Advocate
for the petitioner.

Mr. Rajiv Verma, Addl. A.G, Punjab.

SANDEEP MOUDGIL, J (ORAL)**1. Relief sought**

The jurisdiction of this Court has been invoked for the third time under section 482 BNSS, 2023 for the grant of anticipatory bail in the FIR no. 30 dated 19.03.2024 under section 21,29 NDPS, 1985 and section 10,11,12 of the Aircraft Act, 1934 and section 21(c) NDPS, 1985 added later on vide GD No.31 dated 21.03.2024 at Police Station: Khalra, District Tarn Taran.

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

“The Station House Officer, Police station Khalra. Today I, ASI alongwith ASI Hari Singh 895/TT, HC Jagroop Singh, 619/TT, PHG Arshdeep Singh 4592, PHG Amarjit Singh 4621, PHG Major Singh 4540 in Government vehicle No.PB-65-BF-1049, whose driver is S/CT Manjinder Singh 173/TT, was present in village Wan Tara Singh for patrolling and in search of bad



elements. An information was received from BSF Company Commander Dal that near village Dal, a drone activity has taken place, search is to be made. I, ASI alongwith my colleagues were coming towards village Dal. Then on the way, the special informer stopped the car and informed that just now a drone has come near village Dal. This drone has been ordered by J.P. son of not known, resident of Wan, Police station Sadar, Tarn Taran, Devinder Singh son of Sukhdev Singh, resident of Marhi Gour Singh and Jagroop Singh son of Sakattar Singh, resident of Manochahal in connivance with each other. After parking their vehicle near the village, they are searching for the heroin in the fields thrown through the drone. When I, ASI reached near village Dal, then near the stadium of the village, two youths in white colour car, fled away from the site upon seeing the arrival of the police. I, ASI alongwith my colleagues reached at the site. Then the BSF officers also came to the site and saw that one Hindu youth is roaming in the fields of wheat. Upon seeing the arrival of the police he sat hidden behind the mango tree. I, ASI with the assistance of my colleagues and officers, nabbed him and asked his name and address. He disclosed his name as Jagroop Singh son of Sakattar Singh, resident of Manochahal, Police station Sadar, Tarn Taran. Upon interrogation, he told that he in connivance with J.P. son of not known, resident of Wan, Police station Sadar, Tarn Taran, 2 Devinder Singh son of Sukhdev Singh, resident of Marhi Gour Singh had ordered the heroin through drone from Pakistan, which has fallen in the fields. All we three persons had come to take this heroin. J.P. son of not known, resident of Wan, Police station Sadar, Tarn Taran, Devinder Singh son of Sukhdev Singh, resident of Marhi Gour Singh have fled from the site in a vehicle and I have been nabbed by you. He produced a mobile mark Oppo to me and said that this mobile is of Devinder Singh, who has given it to me and said that if you would be able to find the heroin then inform me on phone. The parcel of the



recovered mobile Oppo was prepared and I stamped the same with my stamp mark SS and took the same into police possession through a memo. The sample stamp was separately prepared and after the use of the stamp, the same was handed over to ASI Hari Singh 895/T.T. Jagroop Singh has told that a' three of us had ordered the heroin from Pakistan through drone, which could not be found as it fell in the crops. J.P.son of not known, resident of Wan, Police station Sadar, Tarn Taran, Devinder Singh son of Sukhdev Singh, resident of Marhi Gour Singh and Jagroop Singh son of Sakattar Singh, resident of Manochahal, Police station Sadar, Tarn Taran have committed an offence under Section 21/29/61/85 NDPS Act and 10,11, 12 of Air Craft Act, 1934 by ordering the heroin from Pakistan through drone. Thus, the ruqa has been written and is sent to the Police station through PHG Amarjit Singh 4621 for the registration of the case. After the registration of the FIR, its number be intimated. Special reports be issued. Control room be informed. I, ASI alongwith my colleagues am busy in investigation at the site and the search operation is going on. Place: Area Dal, Time: 06.10 PM. Sd/- Satnam Singh, ASI, Police station Khalra, dated 19.03.2024.

3. **Contention**

On behalf of the petitioner

Learned Counsel for the petitioner submits that earlier the petition bearing CRM-M-23413-2024 was dismissed as withdrawn vide order dated 09.05.2024 (Annexure P-1) and on second occasion on 21.08.2025, the petition bearing No. CRM-M-42741-2025 was also dismissed as withdrawn, however liberty was granted to file afresh with better particulars. Learned counsel contends that the petitioner has been falsely implicated in the present case as no recovery has been effected from him. He argued that the petitioner has been roped in this case on the basis



of disclosure statement made by co-accused person and except that, no incriminating evidence is available on record to connect the petitioner with the alleged contraband i.e., 910 grams of *heroin*. It is contended that the mobile phone allegedly provided to the accused by the petitioner was sent to the Forensic Science Laboratory (FSL) for a thorough examination, during which no evidence was found linking the petitioner to the contraband or indicating any communication with Pakistan.

Furthermore, to demonstrate a change in circumstances, counsel has submitted that the challan has been filed in the present case, and no role or involvement of the petitioner has been proved. Accordingly, a prayer is made for the grant of anticipatory bail to the petitioner.

On behalf of the State

At the outset learned State Counsel has raised a preliminary objection regarding the maintainability of this petition stating that second or subsequent anticipatory bail under Section 482 of BNSS, 2023 without there being any change of circumstance is not maintainable. On merit, it is contended by learned State counsel that the present petitioner was actively involved in the crime as he was one of the three persons, who had come to take the delivery of the contraband ordered through drone from Pakistan, which had fallen in the fields and only upon being apprehended by the police, the petitioner had fled from the spot. Moreover, the co-accused person apprehended by the police, has disclosed that the petitioner had given him a mobile phone, which was recovered by the police, to relay information once the contraband was found. He argued that the allegations against the petitioner warrant custodial interrogation to unearth the truth, therefore, prays for dismissal of the present petition.



4. Analysis

This court at this juncture would first delve into the provision of Section 29 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, wherein it specifically provides that, individuals can be prosecuted if they are found to be buyers or sellers of contraband, especially in the context of conspiracy or abetment related to drug offences. This section specifically addresses the penalties for those who assist or participate in a criminal conspiracy to commit an offence under the NDPS Act. It emphasizes that *"whoever abets, or is a party to a criminal conspiracy to commit an offence"* is subject to punishment under this law. Buyers or sellers though may not be found in conscious possession 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 are 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 implicated 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 drug is a social malady, while drug addiction eats into the vitals of the society whereas drug trafficking not only eats into



the vitals of the economy of a country, but illicit money generated by drug trafficking is often used for illicit activities including encouragement of terrorism. The devastating effects of narcotic drugs on any person who comes to its touch are too well known. Normally, such a person ceases to be a normal human being, and is more or less reduced to zombie living animal existences and rushing fast to meet the maker. Divine qualities of an individual who consumes narcotic drugs disappear and they are the first sacrifices one normally makes while falling prey to use of drugs. Anxiety of legislature is to prevent the adverse affect of such drugs and substances on the society.

Adverting to the merits of the present case, the petitioner is alleged to have played an active role in the commission of the offence, wherein a total recovery of 910 grams of heroin was effected—an amount that falls within the *commercial quantity* as defined under the relevant statutory provisions. According to the prosecution's version, as detailed in the FIR, the petitioner was present at the scene, purportedly waiting for a consignment of contraband allegedly delivered via drone from Pakistan. Upon noticing the arrival of the police party, he is said to have fled the spot. However, his co-accused was apprehended at the scene, and during the course of investigation, he not only disclosed the name of the petitioner but also produced a mobile phone, claiming that the said device had been given to him by the petitioner with instructions to inform him once the contraband was located.

This Court is of the considered view that the petitioner's argument that no record of communication with Pakistan was found even after a detailed forensic examination, merits legal scrutiny. Notably, only the



mobile phone allegedly handed over by the petitioner to the co-accused has been examined. The device on which the petitioner might have received calls from the co-accused remains unexamined. In such circumstances, the possibility of existing communication records with Pakistan cannot be ruled out. Accordingly, custodial interrogation is deemed necessary to unearth material and sensitive information pertinent to the investigation.

Moreover, the rigours of section 37 of NDPS Act will be attracted as the recovered contraband falls under the commercial quantity. To grant bail at this stage would, in effect, subtly convey a tacit endorsement or unintentional encouragement of such nefarious activities. This court being the guardian of its citizens deems it necessary that to curb this drug menace such offenders needs to be taken to task especially when the lives of the country's youth its future, are at risk.

Otherwise also the present petition is not maintainable being the 3rd petition for anticipatory bail, as earlier petition bearing CRM-M-23413-2024 was dismissed as withdrawn vide order dated 09.05.2024 (Annexure P-1) and on second occasion on 21.08.2025, the petition bearing No. CRM-M-42741-2025 was also dismissed as withdrawn, however liberty was granted to file afresh with better particulars and still the petitioner failed to show any substantial change in circumstance before this Court after 09.05.2024 (Annexure P-1) as the mere filing of challan does not constitute a change in circumstance insofar as the present petitioner is concerned.

In the light of above discussions made and keeping in mind the modus operandi engaged in illicit activities, such offences 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 fact that no recovery was effected from the petitioner.

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.

16.09.2025
anuradha

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

:*Yes/No*
:*Yes/No*