

2025.PHHC.009682



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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-3810-2025  
DECIDED ON: 23.01.2025

JASWINDER SINGH ALIAS HAPPY

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. A.S. Brar, Advocate  
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.165, dated 27.12.2024, under Sections 21 of NDPS Act, 1985 (Section 29 of NDPS added later on), registered at Police Station Badhni Kalan, District Moga (Annexure P-1).

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

*“Station House Officer, Police Station Badhni Kalan "Fateh" Today I, ASI along with ASI Sandeep Kumar 716/Moga, S/CT Mandeep Singh 1168/Moga, S/CT Beant Singh 1151/Moga, SI Jarnail Singh 3733/PBI (computer operator), S/CT Davinder Singh 872/Moga, including a laptop and printer and investigation Kit, on a government vehicle bearing registration number PB-29-X- 6634, driven by S/CT Davinder Singh 872/ Moga, were on*

*Patrolling and checking of suspicious persons and vehicles were in the area of Police Station Badhni Kalan, Raniya, and Buttar Kalan. When the police party was on Patrolling on the link road from Badhni Kalan to Raniya, At around 12:45 PM, a person was walking on foot from Badhni Kalan towards Raniya. Upon seeing the police vehicle, he quickly turned from the link road onto a dirt path. He took something out of the right pocket of his hoodie jacket and threw it on the ground, and tried to run away. I ASI Mandeep Singh stopped the vehicle and, with the help of colleagues, apprehended the said person. The apprehended person was asked for his name and address and he identified himself as Baljit Singh alias Mintu, son of Kuldeep Singh alias Kala, son of Kewal Singh, resident of House No. 241, Ward No. 16, near Gurdwara Baba Jiwan Singh, Sadha Wali Basti, Moga. Attempts were made to join public witnesses at the spot, but due to the low traffic on the road, none were found. Video recording was done at the spot using the e-Sakshi application. The I ASI identified myself by name, rank, and posting to the apprehended person and informed him that a search of his person and the transparent envelope thrown by him on the ground, suspected to contain a narcotic substance, would be conducted. You have a legal right to conduct your search by a magistrate or a gazetted officer, and they can be called to the spot or you can be taken to them. On which accused Baljit Singh alias Mintu said that you can conducted search of me and my transparent plastic polythene thrown on the road, there is no need to call any other officer. A notice under Section 50(1) of the NDPS Act was prepared, which was signed by Baljit Singh alias Mintu in Punjabi. ASI Sandeep Kumar 716/Moga and S/CT Mandeep Singh 1168/Moga signed as witnesses. I ASI asked Baljit Singh alias Mintu to pick up the transparent envelope from the ground and I checked the same. Upon checking, Heroin was recovered from the said transparent envelope. Using the computer from the Investigation Kit, the heroin was weighed and found to be 15 grams recovered from the*

*transparent Plastic envelope. The transparent Polythene containing 15 grams of heroin was placed in a cloth and prepared a parcel and sealed the parcel with my letter stamp S.S. Sample stamp was prepared separately on a cloth. After using the stamp, same was handed over to ASI Sandeep Kumar 716/Moga. The parcel containing the heroin duly stamped with letter stamp S.S. and the sample stamp were taken into police custody through a seizure memo. ASI Sandeep Kumar 716/Moga and S/CT Mandeep Singh 1168/Moga signed the seizure memo as witnesses. Baljit Singh alias Mintu has committed an offence under Sections 21, 61, and 85 of the NDPS Act by possessing heroin in his possession. A Ruga is being written and sent to the police station to register a case against Baljit Singh alias Mintu, son of Kuldeep Singh alias Kala, son of Kewal Singh, resident of House No. 241, Ward No. 16, near Gurdwara Baba Jiwan Singh, Sadha Wala Basti, Moga, district Moga, by hands through S/CT Beant Singh 1151/Moga. The FIR number shall be informed after registration of case. Special reports shall be issued and the Moga PCR shall be informed. I ASI and colleagues are currently engaged in further investigation”*

3. **Contention**

**On behalf of the petitioner**

Learned counsel for the petitioner submits that initially the petitioner was not named in the FIR. Thereafter during investigation, he was nominated as an accused vide DDR No.13 dated 29.12.2024 on the basis of disclosure statement of co-accused namely Baljit Singh @ Mintu from whom the alleged recovery of contraband i.e., 15 grams of heroin was effected.

Notice of motion.

**On behalf of the State/complainant**

On the asking of Court, Mr. Jaspal Singh Guru, AAG Punjab, accepts notice on behalf of respondent/State. He prays for dismissal of the

present petition on the ground that the petitioner is a habitual offender, as he is involved in other cases.

4. **Analysis**

Be that as it may, having given a considerable thought to the submissions made hereinabove especially the fact that recovery of contraband was effected from the possession of co-accused, who disclosed the name of the petitioner in his disclosure statement, this Court is of the considered view that there is no valid or cogent reason to deny the bail to the present petitioner, wherein he has *bona fide* intentions and is ready and willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “***Baljinder Singh alias Rock vs. State of Punjab***” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial the concession of bail.

5. **Decision**

Hence, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer

concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

*'When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-*

*(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*

*(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*

*(iii) a condition that the person shall not leave India without the previous permission of the Court;*

*(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'*

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within a period of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

**(SANDEEP MOUDGIL)**  
**JUDGE**

**23.01.2025**

*Meenu*

*Whether speaking/reasoned*      *Yes/No*  
*Whether reportable*              *Yes/No*