



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

137

CRM-M-27797-2025

DATE OF DECISION: 20.05.2025

ANIL SHARMA

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vishal Sharda, Advocate for the petitioner(s).

Mr. Chetan Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)1. Prayer

This petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita 2023 for grant of Anticipatory bail to the petitioner in case FIR No. 27 dated 06.02.2025 under section 21(b) of NDPS Act, 1985 registered at Police Station: New Colony, District: Gurugram as Annexure P-1.

2. Prosecution story, set up in the present case as per the version in the FIR reads as under :-

'To The SHO Sahab, Police Station New Colony, Gurugram, Jai Hind. Today I, ASI alongwith fellow employees Ct. Anil 5371/GGM in Government vehicle No. HR26GV7012 with its driver Ct. Shekhar 4788 and his own laptop with printer were present near Patodi Chowk, Gurugram for patrolling and crime investigation. There the secret informer informed that Sonu son of Amar Singh, resident of village Sattaran, District Moradabad, Uttar Pradesh, present resident of Street No.7,



Rajiv Nagar, house of Rajesh Kataria, Gurugram. He deals in selling narcotic drugs. After some time he will be coming to New Colony Turn, Gurugram near Sai Baba Temple to supply narcotic drugs. If surveillance is done after reaching there, then Sonu can be caught along with the narcotic drugs. On finding the information to be credible, notice under Section 42 of the NDPS Act is being prepared and sent to the higher authorities through Constable Anil 5371/GGM. I, AS.I. and fellow employees and the secret informer, reached near Sai Baba Temple, New Colony turn, Gurugram, where the persons present there were requested to become witnesses of the incident. Dharmendra son of Ramesh, resident of village Sahapurjat, Police Station Babugarh, District Hapur, Uttar Pradesh, present address Rajiv Nagar, Gurugram, Mobile No.9315722507 agreed to become a witness. At the same time Constable Anil 5371/GGM after getting DDE NO-40 TIME 08.05 PM DT 06.02.2025 recorded in the Police Station New Colony, Gurugram came present. After some time, the secret informer by giving signal disclosed that the person standing in front of POLYCAB shop is Sonu, who is wearing blue lower and black jacket. The secret informer was made free there itself and after this I, A.S.I. alongwith the fellow employees caught that person and when asked his name and address, that person told his name as Sonu son of Amar Singh, resident of village Sattaran, District Moradabad, Uttar Pradesh, present address, Street no.7, Rajiv Nagar, Rajesh Kataria's house, Sector 14, Gurugram. The aforesaid Sonu was told that there is a suspicion that you are in possession of narcotic substances and you have to be searched, for which you have the legal right to get yourself searched by a Magistrate or any Gazetted Officer, for which a notice under Section 50 NDPS Act was prepared separately and given to Sonu and Sonu after listening, reading and understanding the notice under Section 50 of the NDPS Act, gave his consent verbally and in writing for getting himself searched by the Gazetted Officer



and then I ASI called the Gazetted Officer Shri Pankaj Mittal ETO/ O DETC (ST) GURUGRAM (WEST) nominated by the Honorable District Magistrate Gurugram on his mobile no. 7011373215 from my mobile no. 9911605591 and requested him to come to the spot, on receiving which information the Gazetted Officer Shri Pankaj Mital ETO/O/ DETC (ST) GURUGRAM (WEST) reached the spot and I ASI informed the Gazetted officer about the situation and after this the Gazetted officer introduced himself and told the arrested person about his legal rights and said that there is secret information about you having drugs and you have to be searched. After that the Gazetted officer conducted my physical search in which no suspicious material was found. After this the Gazetted officer ordered me, ASI, to conduct a physical search of the arrested person. Then a plastic sheet was found in the right pocket of the clothes worn by Sonu. When it was opened and checked, a pink colored narcotic substance was found in a sheet. Sonu, who was arrested, told that this narcotic substance is smack (heroin). When Sonu was asked to produce the license or permit for possessing the smack (heroin), he could not produce any of the above mentioned licenses or permits. The smack (heroin) recovered along with the plastic foil was weighed on a digital scale and the total weight of smack (heroin) along with the plastic foil was 8.34 grams. Videography was done on the e-Sakshi app from the mobile phone of me, A.S.I. The narcotic substance smack (heroin) received from Sonu aforesaid was put in a separate plastic box in a cloth parcel. On the cloth parcel I put my seal DK's 3 and sample seal was prepared separately and the seal after use was later handed over to Constable Shekhar 4788 and the Gazetted officer sealed the narcotic substance smack (heroin) parcel with his one seal of SK's and put one of his stamp on the sample seal also and kept the seal after use with himself. The narcotic substance smack (heroin) when weighed it came to be 8.34 grams, and which was taken into police possession duly sealed



with seals DK/2, SK/1 and sample seal, vide memo and the accused as well as witnesses put their respective signatures on the receipt memo and same was attested by the Gazetted Officer. The aforesaid Sonu has committed the offence under Section 21 (B) of the NDPS Act, by keeping in his possession 8.34 grams of the narcotic substance smack (heroin). So, after preparing a writing in the laptop and taking its print, same is being sent to the police station New Colony. Gurugram through Constable Anil 5371/GGM for getting a case registered. After registering the case FIR number be intimated and special report of the case be sent to the higher officers and another Investigating Officer be sent at the spot for taking further action. I, ASI alongwith the police employees and accused as well as case property, am present at the place of occurrence.'

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. He submits that the petitioner was named in the present FIR on the basis of disclosure statement made by co-accused-Sonu from which 8.34 gram of Heroin has been allegedly recovered. It is his further contention that co-accused-Sonu has already been admitted on regular bail by the Trial Court, moreso, there is no evidence produced by the prosecution to connect the petitioner with the alleged recovery.

Learned counsel for the petitioner undertakes that the petitioner is ready and willing to join the investigation and cooperate with the investigating officer.

Notice of motion.



On behalf of the State

Learned State Counsel appearing on advance notice on instructions from Investigating officer vehemently opposes the prayer for grant of concession of anticipatory bail stating that the petitioner is a habitual offender as he is involved in number of other FIRs, moreover, the petitioner was caught red handed with the contraband i.e. 8.34 grams of Heroin, hence, prays for dismissal of the petition.

4. Analysis

Be that as it may, after given a thoughtful consideration to the submissions as made, by the counsel for both the parties particularly to the effect that whatever recovery is effected is made from the co-accused-Sonu who has already been granted concession of regular bail by the Trial Court, moreover, no concrete material has been produced by the prosecution to connect the petitioner with the recovery, hence, this Court finds no reason to deny the petitioner the concession of anticipatory bail, wherein the petitioner has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency within the stipulated time period.

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 land the petitioner in a situation of denial of the concession of bail.

5. **Relief**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail subject to him joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of 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 one week, the order passed by this Court today shall automatically stand cancelled.

The petition in the aforesaid terms stand allowed.

(SANDEEP MOUDGIL)
JUDGE

20.05.2025

anuradha

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No