

2025.PHHC.002773



236 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64166-2024
DECIDED ON: 08.01.2025

JOGINDER SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Vikramjeet Singh, Advocate and
Mr. Robindeep Singh Bhullar, Advocate the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J

1. RELIEF SOUGHT

The jurisdiction of this Court has been invoked under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023, 3rd time for the grant of regular bail to the petitioner in case bearing FIR No. 13, dated 13.02.2024, under Section 15(c) of NDPS Act, 1985 (offence under Section 29 of NDPS Act added later on), registered at Police Station Talwandi Sabo, Bathinda.

2. FACTS

As per the narration in the FIR the brief facts of the case read as under:-

Copy of, ruqa, SHO Police station Talwandi Sabo Salute, today I SI alongwith ASI Manjinder Singh, C-II Amrik Singh, sr. Cepoy Rajinder Singh. Senior Cepoy Lakhwinder Singh, PHG Gurwinder Singh on government vehicle Bolero No. PB-03AT-0392 driven by Sr.

Cepoy Gaganpreet Singh were going towards Maur Mandi via Maur Road from Talwandi Sabo on patrolling and checking of suspicious persons, then it was about 02.00pm, when police party reached at a distance of 3 km from Talwandi Chowk, then two persons were moving bags by removing Tarpal over truck, on left side of road and on seeing police party vehicle, suddenly sat on the bags in truck. I, SI caught suspicion regarding narcotic substance then immediately got the vehicle stop on the basis of suspicion and went near the truck and saw that raw coal was loaded in the truck and these persons, who were standing on the truck were asked to get down and there whereabouts were asked on which first person disclosed his identity as Sandhura Singh son of Gurdial Singh r/o village Saulbara as truck owner and driver and second person introduced himself as Babbu Singh son of Jarnail Singh r/o village Bhai Rupa and present residing at village Saulpra, District Bathinda. I SI tried to join private witness at the spot but no witness was ready to join and everyone gave his own excuse. Then I, SI introduced my name, rank and place of posting to them and said that I am SI Karamjeet Singh 842/BTI, CIA-I Bathinda posted as investigating officer and I am wearing uniform having name plate and search of yourself and truck in your possession and black colour plastic bags lying over coal are to be searched under prohibition of narcotic substances law and you are having legal right in case, you want get yourself searched in presence of some Gazetted officer or Magistrate, on you can be taken to them alongwith truck. Sandhura Singh and Babbu Singh one after another said that they want to get the search of theirs and that of truck and black colour plastic bags lying over coal loaded in the truck from some gazetted officer, on which consent memo of Sandhura Singh and Babbu Singh were recorded separately and read over to Sandhura Singh and Babbu Singh, who put their signature on the same and witnesses also signed the memos. Then I SI at about 03.00pm requested control room Bathinda from my phone to send some Gazetted officer at the spot for conducting search of narcotic

substance and also issued report under section 42 of NDPS Act to circle officer Talwandi Sabo, DSP for information through PHG Gurwinder Singh, after which at about 03.10pm shri Rajesh Sanehi PPS Deputy Superintendent of Police, (Talwandi Sabo) Bathinda arrived at the spot alongwith his staff on government vehicle Bolero No. PB-65BA-8623 and I SI apprised him about the circumstances. On the instruction of DSP, I SI again tried to join private witness but no person became ready to give witness and expressed on difficulty. On this, DSP verified name and address of Sandhura Singh and Babbu Singh and finding it to be correct. DSP apprised his identity to Sandhura Singh and Babbu Singh one by one as his introduction as Rajesh Sanehi PPS Deputy Superintendent of Police, Talwandi Sabo Bathinda wearing uniform having name plate and. is gazetted officer of Punjab Government and search of yourself and truck bearing NO. PB-10CW-9535 in your possession and black colour plastic bags lying over coal are to be searched under prohibition of narcotic substances law and you are having legal right in case, you want get yourself searched in presence of some other Gazetted officer or Magistrate, on you can be taken to them alongwith truck. Sandhura Singh and Babbu Singh one after another said that they have faith in him and they want to get the search of theirs and that of truck and black colour plastic bags lying over coal loaded in the truck from him, on which consent memo of under section 50 of NDPS Act of Sandhura Singh and Babbu Singh were recorded separately and read over to Sandhura Singh and Babbu Singh, who put their signature on the same and witnesses also signed the memos., Sandhura Singh and Babbu Singh and the plastic bags colour black having mouth closed with plastic rope, lying over coal in the truck and after opening checked one by one then poppy husk was recovered from them and rest it was coal in the truck. Recovered poppy husk bags were again closed with plastic rope and were measured with the help of computerized mini scale and it came out to be 20 kg each including wait of plastic bag total 300 kg poppy. husk.

All bags were converted into parcel with sr. no. to 15 and were sealed vide seal bearing impression KS by me and sample seal was prepared separately and seal after usage was handed over to ASI Manjinder Singh. Then aforesaid parcels of plastic bag containing poppy husk were sealed by DSP with his seal with impression RS and verified with his signatures. Sample seal was also verified by him by putting seal. The cabin of the truck was checked from the dashboard. One photocopy of RC no. PB-10CW-9535. Gurdial Singh resident of Salebra issued by RTI Bathinda, on which chassis No.XXX engine NO.XXX is written, which matches with the truck. One permit No. XXX issued in the name of Sandhura Singh valid from 09.09.2021 to 08.09.2026 issued by RTA Bathinda on 16.09.2021, one bilty of new diamond fruit carrier, Fasepur road, Sabdata ravail Jalgaon, Maharastra to PM trader south Amritsar. As per which raw coal is loaded in the truck, one slip dated 10.02.2024 of Kanesh Toll Kanda, Chopra Road Jabal, District Jalgaon, Maharashtra as per which total wait of the coal in truck is 17745 kg. Then parcels containing poppy husk from sr. no. 1 to 15 were taken into police possession alongwith sample seal, photo copy of RC, permit Number, bilty and slip of Dharamkanda alongwith truck bearing, number aforesaid including raw coal vide separate recovery memo and witnesses put their signature on memo and Memo was verified by DSP. Then I SI as per the instruction of DSP carried out jamatalashi of Sandhura Singh and Babbu Singh, on which currency notes worth Rs. 500/- were recorded from the front pocket of the shirt of Sandhura Singh and one mobile phone make vivo touch screen golden colour with sim was recovered and from the front pocket' of Shirt of Babbu Singh, mobile I-Tel colour black, keypad alongwith SIM was recovered and recovered currency notes and mobile phone were taken into police possession vide separate jamatalashi memo. Witnesses and accused Sandhura Singh, Babbu Singh put their signature on memo. Memo wwer attested by DSP, the Act of Sandhura Singh and Babbu Singh of keeping poppy husk in their possession without license makes offence

under section 15-C/61/85 of NDPS Act, therefore, ruga is sent is hereby • sent for registration of FIR against aforesaid Sandhura Singh and Babbu Singh through Senior Cepoy Gaganpreet Singh to police station Talwandi Sabo, FIR number be informed after registration. Special reports be issued to officers and DCR be informed, I SI alongwith staff is busy in investigation at the spot in the area of Talwandi Sabo Chowk to Maur Road, in the area of Talwandi Sabo at 05.30pm, Sd/- SI Karamjit singh, CIA-I Bathinda dated 13.02.2024, Mb. No. XXX

3. **SUBMISSIONS**

ON BEHALF OF PETITIONER

Learned counsel for the petitioner has contended that the petitioner has been nominated as an accused in the present case on the basis of disclosure statement suffered by his co-accused namely Sandhura Singh, who has disclosed that out of the total contraband 100 kg of Poppy Husk was to be supplied to the present petitioner and apart from that there is no other incriminating material against the petitioner to connect him in the commissioning of offence. Moreover, no recovery has been affected from the conscious possession of the present petitioner, hence, the prosecution has no case against the petitioner except the disclosure statement of the co-accused, which has no evidentiary value.

SUBMISSIONS ON BEHALF OF RESPONDENT-STATE

Learned State counsel has vehemently opposed the prayer made in the present petition stating that the petitioner along-with other co-accused has rightly been booked under Section 29 of NDPS Act, as all of them were the conspirators and has abeted in the commissioning of alleged offence by playing an active role being supplier and buyer.

Heard learned counsel for the respective parties.

4. ANALYSIS AND CONCLUSION

Under Section 29 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, individuals can be prosecuted if they are found to be buyers of contraband, especially in the context of conspiracy or abetment related to drug offenses. This section specifically addresses the penalties for those who assist or participate in a criminal conspiracy to commit an offense under the NDPS Act. The evidence presented in relevant documents and the First Information Report (FIR) indicates that the petitioner was involved as a buyer in a conspiracy, which could invoke the provisions of Section 29 of the NDPS Act. This section emphasizes that *"whoever abets, or is a party to a criminal conspiracy to commit an offence"* is subject to punishment under this law. Buyers 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 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 targeted 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.

In this case, there is substantial evidence showing that the petitioner made an advance payment for purchasing contraband, which allows the court to

reasonably conclude that the petitioner entered into a criminal conspiracy aimed at facilitating the commission of an offense. Moreover, it is not disputed that the contraband attempted to be transported by the co-accused was to be supplied to the present petitioner.

Furthermore, the petitioner's criminal history, marked by involvement in one another similar case, raises serious concerns about the likelihood of reoffending. There is a distinct possibility that, if granted bail, the petitioner will once again partake in this unlawful enterprise. To grant bail at this stage would, in effect, subtly convey a tacit endorsement or unintentional encouragement of such nefarious activities.

In the light of above, discussions made and the *modus operandi* of the kingpins engaged in illicit activities, whether trafficking in small or intermediate quantities, 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 quantity involved.

Keeping in view the afore-said facts and circumstances and nature of averments, the petitioner does not deserve the concession of regular bail.

Hence, the present petition is hereby, dismissed.

08.01.2025
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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>