



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-39794-2025
Date of decision: 27.08.2025

GURMEJ SINGH @ GERRY

....Petitioner

Versus

STATE OF PUNJAB

....Respondent

CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present:- Mr. Ruhani Chadha, Advocate for the petitioner.

Mr. Satvir Mander, AAG Punjab.

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RUPINDERJIT CHAHAL, J. (ORAL)

1. Through the instant petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS"), the petitioner seeks anticipatory bail in case FIR No.125 dated 05.12.2024 under Sections 21 of the NDPS Act (Section 29 of the NDPS Act added later on) and Section 25 of the Arms Act registered at Police Station Sadar Jalalabad, District Fazilka.

2. Status report dated 26.08.2025 in the form of an affidavit of Deputy Superintendent of Police, Sub-Division Jalalabad, District Fazilka, has been filed. The same is taken on record.

3. On 25.07.2025, following order had been passed: -

" The present petition has been filed under Section 482 of BNSS, 2023 seeking anticipatory bail to the petitioner in a case bearing FIR No.125 dated 05.12.2024 under Section 21 of NDPS Act, 1985 and Section 25 of Arms Act, 1959 and Section 29 of NDPS Act added later on registered at Police Station Sadar Jalalabad, District Fazilka (Annexure P-1).



Learned counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in the present case. Admittedly, the alleged contraband was recovered from the conscious possession of coaccused, namely, Navdeep Singh @ Lovely and Babbu Singh. He further contends that the petitioner has been nominated as an accused on the basis of disclosure statement made by co-accused, namely, Navdeep Singh @ Lovely during his custodial interrogation, which has no evidentiary value in the eyes of law and the same is hit by Sections 25 and 26 of the Evidence Act. Learned counsel submits that the petitioner is having clean antecedents as he is not involved in any other case.

Notice of motion.

Mr. Subhash Godara, Addl. A.G. Punjab, who is present in the Court, accepts notice on behalf of respondent-State and waives service.

In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833, at the first instance, the petitioner is directed to appear before the Investigating Officer within two weeks from today and on his doing so or in the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating/Arresting Officer and abide by the conditions as provided under Section 482 of BNSS, 2023 (Erstwhile Section 438 (2) Cr.P.C.)

Adjourned to 27.08.2025.

If the Investigating/Arresting Officer does not permit the petitioner to join the investigation, the petitioner would appear before the Illaqa Magistrate, who would then summon the Investigating/Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.”



4. Learned counsel for the petitioner submits that in compliance of the order dated 25.07.2025 passed by this Court, the petitioner has joined the investigation. He has further argued that there is no connection between the petitioner and co-accused and the petitioner is sought to be implicated only on the basis of disclosure statement.

5. Learned counsel for the State, on instructions from ASI Paramjit Singh, has submitted that the petitioner has joined the investigation and is no longer required for further investigation. He has further submitted that since the FIR in question is under the NDPS Act of 1985, the petitioner ought not to be extended the concession of anticipatory bail. However, he could not controvert the fact that except the disclosure statement of co-accused nothing is there to connect the petitioner with the recovered contraband.

6. I have heard learned counsel for the rival parties and perused the available record.

7. At this juncture, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court titled as '***Tofan Singh vs. State of Tamil Nadu, AIR 2020 Supreme Court 5592***', relevant whereof reads as under:

"155. We answer the reference by stating: (i) That the officers who are invested with powers under section 53 of the NDPS Act are "police officers within the meaning of section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act (ii) That a statement recorded under section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS ACT".



8. More recently, the Hon'ble Supreme Court in a judgment titled as '*Smt. Najmunisha, Abdul Hamid Chandmiya @ Ladoo Bapu Vs. State of Gujrat, Narcotics Control Bureau*' 2024 INSC 290', has reiterated the ratio decidendi of the judgment of Hon'ble Supreme Court in the case of Tofan Singh (supra).

9. The Hon'ble Supreme Court while dealing with a plea for grant of anticipatory bail in a case under NDPS Act, 1985; in a judgment titled as '*Vijay Singh vs. The State of Haryana, bearing Special Leave to Appeal (Crl.) No.(s)1266/2023 decided on 17.05.2023*' has held as under:

"The petitioner is alleged to have committed offences under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter called the NDPS Act". His application for anticipatory bail was rejected by the High Court. The allegations in the FIR are that 1.7 Kg of Poppy Straw (Doda Post) was recovered from the co-accused. The petitioner concededly was not present at the spot but was named by the co-accused. That apart there is no other material to implicate the petitioner. The prosecution urges that another case with allegations of commission of offence under the NDPS Act are pending against the petitioner. It is not denied that in those proceedings he was granted bail. Having regard to these circumstances, the petitioner is directed to the enlarged on anticipatory bail, subject to such terms and conditions as the trial Court may impose. The petition is allowed. All pending applications are disposed of."

10. The petitioner is sought to be arrayed solely on the basis of disclosure statement of the co-accused. Suffice to say there is no other material available to connect the petitioner with the recovered contraband. The veracity of the disclosure statement made by the co-accused will be subject to comprehensive scrutiny during the course of the trial and same cannot be a ground to decline the concession of anticipatory bail to the



petitioner especially when he has joined the investigation in terms of interim protection granted by this Court.

11. In view of the above, the interim order dated 25.07.2025 is made absolute. The petitioner shall continue to join investigation, as and when called by the Investigating Officer and shall also abide by the conditions as provided under Section 482(2) of the BNSS.

12. Needless to say anything observed herein above shall not be construed to be an opinion on the merits of the case.

27.08.2025
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(RUPINDERJIT CHAHAL)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |