



CRM-M-60440-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

224

CRM-M-60440-2024 (O&M)

Date of Decision: 27.03.2025

Mojes

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**Present:** Mr. Ravi Malhotra, Advocate for the petitioner.

Ms. Manjot Kaur, AAG, Punjab.

MAHABIR SINGH SINDHU, J.**CRM-7070-2025**

Application under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for adding Section 25 of Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act') in the head note as well as prayer clause of the petition.

For the reasons mentioned in the application, same is allowed as prayed for, subject to all just exceptions.

Registry will do the needful.

CRM-7071-2025

Application under Section 528 of BNSS for placing on record copy of challan dated 28.01.2025 and DDR dated 05.02.2025 as P-5 and P-6, respectively.

For the reasons mentioned in the application, same is allowed as prayed for, subject to all just exceptions and P-5 and P-6 are taken on record.

Registry to tag the same at appropriate place.

**Main Case**

Present petition has been filed, under Section 483 of BNSS for grant of bail pending trial to the petitioner in FIR No.72 dated 12.06.2022, registered under Sections 15(C), 25 and 29 of NDPS Act, at Police Station Lohian, District Jalandhar Rural.

2. Allegations are that 55 Kg 200 grams poppy husk (commercial quantity) was recovered from body of truck driven by co-accused-Rajinder Singh @ Vicky and Sahil Kumar (Cleaner of the truck) & petitioner was nominated on the disclosure made by co-accused Rajinder Singh.

3. Contends that petitioner is in custody since 01.09.2024; supplementary final report under Section 173(8) Cr.P.C has already been presented *qua* the petitioner on 05.02.2025; but charges are yet to be considered; thus, conclusion of trial will take sufficient long time. Also contends that main accused, namely, Rajinder Singh @ Vicky from whom the alleged contraband was recovered, has already been granted bail pending trial by the Co-ordinate Bench on 16.10.2023 (P-4).

4. *Per contra*, learned State counsel is not able to dispute the above factual position; but vehemently opposed the prayer while submitting that allegations against the petitioner are serious in nature; hence, he does not deserve the concession of bail pending trial.

5. Heard both sides and perused the paper-book.

6. Although recovery against the main accused, Rajinder Singh @ Vicky is alleged to be commercial in nature, but concededly, no contraband was recovered from the petitioner. Therefore, it would be debatable during trial as to whether petitioner was in any way connected with the recovery of alleged contraband. Be that as it may, at this stage, it is very difficult to comprehend that petitioner was in conscious possession of the alleged



contraband.

7. Thus, in such a scenario, there is no hesitation to record the “Twin Test” satisfaction in favour of the petitioner as per Section 37(1)(ii) of the NDPS Act in the following manner:-

(i) Prima facie, there is no material to indicate that petitioner was found in conscious possession of the alleged contraband; hence, being a debatable question, shall be decided during trial and in such a scenario, it is very difficult to say that petitioner is guilty of the alleged offence;

(ii) After registration of the FIR in question, petitioner has not been involved in any case under the NDPS Act.

8. Needless to say that above “Twin Test” satisfaction has been recorded only for the purpose of bail application and same be not treated as an opinion on pending trial.

9. Concededly, petitioner is in custody since 01.09.2024; supplementary final report under Section 173(8) Cr.P.C has already been presented *qua* the petitioner on 05.02.2025; but charges are yet to be considered. Main accused, namely, Rajinder Singh @ Vicky from whom the alleged contraband was recovered, has already been granted bail pending trial by the Co-ordinate Bench on 16.10.2023 (P-4). As the conclusion of trial may take sufficient long time; therefore, further incarceration of the petitioner would not serve any purpose.

10. Consequently, present petition is allowed; petitioner shall be admitted to bail on furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

11. Petitioner shall appear on each & every date of hearing and to fully co-operate with the learned trial Court without seeking any unnecessary adjournment(s).

12. The above observations be not construed as an expression of



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opinion on the merits of the case.

13. It is clarified that in case there is recurrence or any misuse of concession of bail on the part of the petitioner, State would be at liberty to move an appropriate application for recalling of this order.

Pending application(s), if any, shall also stand disposed off.

27.03.2025

Rajeev (rvs)

(MAHABIR SINGH SINDHU)

JUDGE

Whether speaking/reasoned Yes

Whether reportable Yes