



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1. CRM-M-33508-2024

Yogesh Kumar

.....*Petitioner*

Versus

State of Punjab

.....*Respondent*

And

2. CRM-M-32717-2024

Rajpaul @ Abhi

.....*Petitioner*

Versus

State of Punjab

.....*Respondent*

Date of decision: 13.01.2025

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.K. Passi, Advocate for the petitioner
in CRM-M-32717-2024.
Mr. Nitin, Advocate for the petitioner in CRM-M-33508-2024.
Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer in both the petitions filed under Section 438 Cr.P.C is for grant of anticipatory bail in case FIR No.57 dated 14.04.2024 under Sections 21C,23,29 of NDPS Act, 1985 (Section 25 and 27-A of NDPS Act and Section 25 of the Arms Act were added later on), registered at P.S Sadar Ferozepur, District Ferozepur.

2. Since the material facts are analogous and issue involved in both the aforesaid petitions is similar, they are being decided by a common order. For the sake of convenience, the facts are being taken from a petition bearing CRM-M-33508-2024.

3. Prosecution story, set up in the present case as per the version in the FIR read as under:



“SHO PS Sadar Ferozpur, Jai Hind, Today myself Insp Incharge CIA Staff Ferozpur alongwith SI Sukhdev Singh No.265/Tarn Taran, ASI Gurmeet Singh No.94/Fzr, ASI Lakhbir Singh No.132/Fzr, HC Simranjeet Singh No. 669/Fzr, Senior Sipahi Gurwinder Singh No. 271/Fzr, Senior Sipahi Satnam Singh No. 385/Fzr, Senior Sipahi Gurjant Singh No. 276/Fzr. Sipahi Karanbir Singh No. 1239/TTN, Lady Sipahi Amanatjot No. 191/Fzr, PHG Gurwinder Singh No. 4647, PHG Baljit Singh No. 22662 on Govt. Vehicle Scorpio color white No. MH-15-TC-844 which was driven by Senior Sipahi Sukhjant Singh No. 279/Fzr. and one Govt. Motorcycle Bajaj Pulsar No. PB-65BE-7425 and one Govt. Motorcycle Bajaj Pulsar No. PB-65BE-7426 alongwith laptop-printer set and was on patrolling and checking of suspected persons, suspected vehicles in Area of PS City Ferozpur, PS Sadar Ferozpur, PS Kulgarhi etc, and when the police party while patrolling reached on Ferozpur to Mallanwala Road, Near Basti Nizamdin then the secret informer came to the ASI Gurmeet Singh No. 94/Fzr and informed that Manjeet Singh @ Mani So Balwant Singh R/o Village Kamale wala, PS Sadar Ferozpur, Rohit Sethi S/o Raman Sethi R/o H.No. 406, Street Sethi Inderjeet Singh Mohalla, Dharpura, City Ferozpur and Bhuvnesh Chopra @Ashish R/o Kucha Kadar Baksh Street Delhi Gate, City Ferozpur now Canada use to purchase the Heroin from Pakistani smugglers and supply the same in heavy quantity. For running the business of smuggling of intoxicants, Manjit Singh @ Mani and Rohit Sethi above has taken the house at Baba Deep Singh Avenue Ferozpur and live here. And their friend Bhuvnesh Chopra @ Ashish above is sitting in outside country and maintain the contacts with the Pakistani smugglers and supply the Heroin and today also they have ordered the Heroin and wanted to supply the same, if the raid is conducted now then they can be nabbed red handed and Heroin can be recovered from them in huge quantity. On which the memo was prepared. The information is trustworthy and believable. So, accused Manjeet Singh @ Mani, Rohit Sethi and Bhuvnesh Chopra @ Ashish above has completed the offence under Section 21/23/29/61/85 NDPS Act. So the ruqa was written against above and was sent by hand through Senior Sipahi Gurjant Singh No. 276/Fzr on Govt Motorcycle Bajaj Pulsar No. PB-65- BE-7426 to the police station for registering the case. FIR be registered and number be informed. Special reports be prepared and sent to Area Magistrate Sahib and Higher Officials. PCR



be intimidated. Secret informer was sent from the spot after receiving all the information and Sh. PPS DSP (D) Ferozepur was given all the information and was requested to reach at the spot. I Insp along with co-police personnel is going at the Baba Deep Singh Colony Ferozepur. Sd/- Prabhjeet Singh Insp, Incharge, CIA Staff, Ferozepur. Dated 14-04-2024. Today at area Basti Nizamdin Ferozepur at 7-15 PM. Today at Police station: After receiving the above ruqa, the FIR was registered under the above mentioned offence against the above persons and FIR alongwith original ruqa was sent by hand through SC who came with the ruqa to the Insp at the spot. Special reports are issued and is sent by hand through C Pragat Singh No. 1292/Fzr to the Duty Magistrate Sahib and Higher Officials. PCR is intimidated through W/M.”

4. Learned counsel for the petitioner would assert that the recovery as alleged in the FIR i.e 7 kg of heroin along with Rs.36 lacs and one country made .32 bore pistol and five live cartridges apart from one rifle .315 bore with five live cartridges and one .30 country made pistol with 5 live cartridges were not effected from the petitioner but from the main accused Manjit Singh @ Money who was travelling in a white color car. He would press upon and harp his arguments on the fact that the petitioner was named along with 37 other persons while relying upon a sheet of paper and actually there is no other disclosure statement and no incriminating material available.

5. Having served with advance copy of the petition, learned State counsel would vehemently oppose the grant of anticipatory bail on the ground that main accused Rohit Sethi has categorically stated that both the petitioners would accompany him to collect the contraband, which used to be delivered to different co-accused persons.

6. Having regard to the assertion made on behalf of the parties, this Court can make out that Rohit Sethi has suffered disclosure statement as has already been recorded by the trial Court, learned State counsel stated that the petitioners are involved in cross border smuggling of contraband namely heroin.



In the instant petition as well, a huge quantity of the contraband i.e 7 kg of heroin apart from the amount of Rs.36 lacs was effected from a group of accused persons and all have been named in the challan, which was presented in the Court on 11.10.2024 though the charges have yet not been framed. Material witnesses are still to be examined as it has not reached the stage of evidence.

7. 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.

8. To evaluate the bail application under the NDPS Act, this Court finds it necessary to revisit the Preamble of the Act, which in essence states that An Act to consolidate and amend the law relating to narcotic drugs, to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances, to provide for the forfeiture of property derived from, or used in, illicit traffic in narcotic drugs and psychotropic substances, to implement the provisions of the International Conventions on Narcotic Drugs and Psychotropic Substances and for matters connected therewith. While addressing the objectives of the NDPS Act, the Hon'ble Supreme Court in the case of *Durand Didier v Chief Secretary, Union Territory Of Goa* (1990) 1 SCC 95 emphasized that the rampant issue of clandestine smuggling and illegal trafficking of drugs and substances has led to widespread drug addiction, particularly among



adolescents and youth. This has had a harmful and devastating impact on society. With grave concern, it was noted that the organized activities of criminal groups and the illegal importation of narcotic drugs and psychotropic substances into the country have caused a significant increase in drug addiction, especially among young people and students, affecting both genders. The menace has grown to alarming proportions in recent years. Consequently, to effectively combat and eliminate this growing threat, which is causing severe and harmful effects on society as a whole, Parliament, in its wisdom, enacted the NDPS Act of 1985, introducing provisions that mandate minimum imprisonment and fines for such offences. The tactics employed by drug peddlers engaging in the narcotics trade often involve starting with small or intermediate quantities, banking on the assumption that, even if apprehended, they will be granted bail. This, however, cannot be the intended purpose of the law. Such individuals, involved in trafficking even modest amounts of contraband, are akin to termites eroding the fabric of society. It is imperative that, when considering bail applications from those engaged in the trafficking of small or intermediate quantities, the Court takes a firm and resolute stance, addressing them with the utmost severity to curb this insidious menace.

9. The menace of drugs has caused serious threat to society and has ruined the future of young persons. The persons involved in such activities cannot claim bail as matter of right. Such accused has to be dealt with iron hand as they are playing havoc with the generation like termite. So many people are losing life and their families are ruined. In one recent instance, when such drug peddlers who behaved like goons, were warned to stop the illegal activities at village Daan Singh Wala, in Bathinda, 30 to 40 young boys opened fire at the village and ransacked the houses of the village and destroyed household items besides setting them on fire and the Sarpanch of the village as also the police were only mute



spectators showing their helplessness to take action against the culprits. This social evil needs to be checked and rather it is also too late for the law enforcing agencies as it is deep rooted into the system and administration.

10. At this stage, this Court is not satisfied that there are reasonable grounds for believing that accused is not guilty of such offence. Custodial interrogation of the petitioner is very much necessary to unearth more necessary information to be provided to the Investigating agency so as to reach the conspiracy being hatched and nab the accused involved in the drug trafficking across the border. The concerns of the State Government are being raised and the police Officers, who are putting their life at risk by tackling with such anti social elements, need the support from the courts of law as well so that they can reach to a logical conclusion in the investigation before filing final report. The trial is also being delayed on account of non arrest of the petitioners which is another aspect in the mind at the time of consideration of instant petition. Custodial interrogation of the petitioners is definitely required for complete and effective investigation and they deserve no leniency at all.

11. Thus, no case for grant of anticipatory bail is made out. Both the petitions are found to be without any merit and are dismissed accordingly.

A photo copy of this order be placed on the connected file.

(SANDEEP MOUDGIL)
JUDGE

13.01.2025

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1. Whether speaking/ reasoned : Yes /No
2. Whether reportable : Yes /No