

PBSA010060302025



Presented on : 05-07-2025
Registered on : 05-07-2025
Decided on : 09-07-2025
Duration : 0 years, 0 months, 4 days

IN THE COURT OF
Additional District and Sessions Judge
AT Mohali,S.A.S Nagar
(Presided Over by Mrs. Neetika Verma)

BA/2337/2025

Varun, aged about 33 years, son of Sukhchain, resident of H. No.2-3,
Laboratory Block, Gol Market, Nangal, District Roopnagar.

.....Accused/petitioner

Versus

State of Punjab.

.....Respondent

(First Bail application under Section 482 of BNSS)

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FIR No. 0008 dated 08.01.2025
Under Section: 21, 29 NDPS Act and Sections 21-C, 29,
27-A, 25 of NDPS Act added lateron.
Police Station : Special Task Force, SAS Nagar.

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Present : Sh. Rajeev K. Kapila, Advocate for the accused-applicant.
Sh. Hardeep Singh, Additional Public Prosecutor for the
State.
ASI Som Raj, No.549/SAS Nagar, Police Station ANTF,
Mohali alongwith police record.

ORDER

The above named accused has filed this application for
grant of pre-arrest bail under Section 482 of BNSS in FIR No.0008
dated 08.01.2025 under Sections 21, 29 NDPS Act and Sections 21-C, 29,

27-A, 25 of NDPS Act added lateron, registered at Police Station Special Task Force, SAS Nagar.

2. Notice of the bail application was issued to the State and police record was requisitioned.

***COMPLIANCE OF DIRECTIVE CONTAINED IN ORDER DATED
28.07.2021 PASSED BY HON'BLE PUNJAB AND HARYANA
HIGH COURT IN CRM-M-1695-2021***

3. Carried out. Report of investigating officer attested by the Additional Public Prosecutor about pendency of or of any former adjudication of bail application before or by any Court under the provisions of BNSS and the result thereof received.

Ahlmad had also reported that according to the information available in the CIS system, no other bail application relating to accused/applicant is pending or decided by any Superior Court. It has also been reported that bail applications of three co-accused namely Nitasha, Harmandeep Singh and Nikhil Nayar have been dismissed vide order dated 21.02.2025 and 01.04.2025.

***ARGUMENTS RAISED BY LEARNED COUNSEL FOR
APPLICANT/ACCUSED:***

4. Contention of learned counsel for the accused-applicant is that he is innocent and has been falsely implicated in this case on the basis of disclosure statement of co-accused. He has never committed any offence. It has been contended that the petitioner has been cheated by Bakshi Finance Co. Nangal, which is owned by Umesh Bakshi, Himmat Bakshi, Rohit and Vishal @ Kalu son of Ashok Kumar, who is the main accused in the present FIR. The petitioner had invested an

amount of Rs.38 Lakh on the asking of the aforesaid persons, but when they failed to return the said money, the petitioner filed the complaint on 25.09.2024 to DSP Nangal and when no action was taken on the said complaint, the petitioner and his father again approached the DSP, Nangal, who asked them to approach the SHO, P.S. Nangal, but no action was taken by the SHO PS Nangal against the abovesaid persons. Instead of taking action against the said persons, the local police of P.S. Nangal illegally picked up the cousin of the petitioner namely Omveer without any FIR or complaint against him and he was released on the next day, who disclosed that he was tortured by the police and they were forcing him to falsely implicate the petitioner and forced him to say that "Varun is a gangster", to which he refused and was thus, given beatings. On 07.01.2025, the father of the petitioner gave representation to the SSP, Roopnagar giving detail of high handedness of the SHO, P.S. Nangal. The petitioner is not named in the present FIR. The co-accused Vishal Sharma @ Kalu against whom, the petitioner had already made complaint to the SSP, Roopnagar, DSP, Nagal and SHO, P.S. Nangal for committing cheating with him to the tune of Rs.38 Lakh, was arrested at the spot by the police of P.S. ANTF, Mohali and thereafter, the petitioner has been falsely implicated in this FIR with the aid of Section 29 of NDPS Act although prima-facie the petitioner has nothing to do with this narcotics trade, which was being run by the co-accused. The petitioner is innocent and has been implicated just because of vengeance. The applicant/accused is ready to join the investigation.

ARGUMENTS OF LEARNED ADDL. PUBLIC PROSECUTOR AND LEARNED COUNSEL FOR COMPLAINANT.

6. The main contention of learned Additional Public Prosecutor for the State is that allegations against the accused/applicant are serious in nature and the custodial interrogation of the accused-applicant is required and hence, he does not deserve the benefit of anticipatory bail.

PREVIOUS ANTECEDENTS OF APPLICANT/ACCUSED:

7. ASI Som Raj, No.549/SAS Nagar has suffered a statement in the Court that in the present case, 354 gram of Heroin was recovered from the conscious possession of co-accused Nikhil Nayyar and Vishal Sharma @ Kalu. During investigation, the accused/applicant Varun was nominated as an accused on the interrogation of co-accused Nikhil Nayyar and Vishal Sharma @ Kalu, who disclosed that they have taken the said heroin from Delhi and they were to deliver the said heroin to the accused/applicant Varun and they earlier also used to do the same. The recovered contraband falls under the commercial quantity. Custodial interrogation of the accused/applicant is required for thorough investigation.

GUIDING PARAMETERS

As outlined in *Gurbaksh Singh Sibbia v. State of Punjab, (SC) : Law Finder Doc Id # 104574 reported in 1980 AIR(SC) 1632 Bhadresh Bipinbhai Sheth v. State of Gujarat and Another : Law Finder Doc Id # 705395 reported in 2015 AIR(SC) 3090 Sushila Aggarwal and others - Petitioners Versus State (NCT of Delhi) and another – Respondents : Law Finder Doc Id # 1674499 reported in 2020 AIR (SC) 831*

(a) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made; (b) The antecedents of the applicant including the fact as to whether the accused has previously undergone

imprisonment on conviction by a court in respect of any cognizable offence; (c) The possibility of the applicant to flee from justice; (d) The possibility of the accused's likelihood to repeat similar or other offences; (e) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her; (f) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people; (g) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution, because over implication in the cases is a matter of common knowledge and concern; (h) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused; (i) The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant; (j) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the course of events, the accused is entitled to an order of bail.

DISCUSSION:

8 Perusal of the police file reveals that the allegation against the accused-applicant is that on 08.01.2025, the co-accused Vishal Sharma @ Kalu and Nikhil Nayyar were found in conscious possession of 354 grams of Heroin (which is commercial quantity) and were arrested. During the course of investigation, on the basis of the disclosure statement made by them, the name of applicant/accused Varun surfaced. It transpires that the accused/applicant was the prospective buyer of the contraband recovered from the said co-accused. Accordingly, the provisions of section 29 of NDPS Act, which provides for the punishment for abetment and criminal conspiracy to commit an offence punishable under the Act has been added. The FSL

report has been received and as per FSL report, the salt i.e. 'Diacetylmorphine (Heroin)' was found in the contraband.

9 Keeping in view the facts and circumstances of the case, the custodial interrogation of the applicant/accused is essential to unearth the names of other people involved in the trade of narcotics. Therefore, the Court is not inclined to extend the benefit of the anticipatory bail to the accused/applicant. The bail application under Section 482 of BNSS is, therefore, declined in view of the reasons mentioned above. Bail application be attached with the remand papers/challan if any or be consigned to the record room. Police record be returned forthwith.

Pronounced in Open Court.
Dated: 09.07.2025

Tajinder Singh

(Neetika Verma),
Judge, Special Court,
SAS Nagar/UID-PB0209

Varun Vs. State of Punjab

BA-2337-2025

Present : Sh. Rajeev K. Kapila, Advocate for the accused-applicant.
Sh. Hardeep Singh, Additional Public Prosecutor for the State.
ASI Som Raj, No.549/SAS Nagar, Police Station ANTF, Mohali alongwith police record.

Police record received today. Statement of ASI Som Raj has been recorded. Arguments heard. Vide my separate detailed order of even date, the present bail application stands dismissed. Bail application be attached with the remand papers/challan if any or be cosigned to the record room. Police record be returned forthwith.

Pronounced in Open Court.
Dated: 09.07.2025

(Neetika Verma),
Judge, Special Court,
SAS Nagar/UID-PB0209

Tajinder Singh