

**IN THE HIGH COURT OF HIMACHAL PRADESH****SHIMLA****Cr.MP(M) No.2603 of 2025****Reserved on: 25.11.2025****Date of Decision: 28.11.2025**

Gurpreet Singh @ Lucky

...Applicant

Versus

State of H.P.

.....Respondent

Coram:***The Hon'ble Mr. Justice Virender Singh, Judge.******Whether approved for reporting?¹***

For the applicant : Mr. Hanspuneet Singh Kehal, Mr. Bhairav Gupta and Mr. Lovepuneet Singh, Advocates,

For the respondent : Mr. Varun Chandel, Mr. H.S. Rawat and Mr. Mohinder Zharaick, Additional Advocates General, with Mr. Rohit Sharma and Ms. Ranjna Patial, Deputy Advocates General.

Virender Singh, Judge

Applicant-Gurpreet Singh @ Lucky, has filed the present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), for releasing him, on bail, during the pendency of the trial, arising out of FIR No.52 of 2025, dated 07.03.2025, registered under Sections 20, 25 & 29 of the Narcotic Drugs & Psychotropic Substances Act (hereinafter referred to as the 'NDPS Act'), with Police Station, Nurpur, District Kangra, H.P.

¹ Whether reporters of Local Papers may be allowed to see the judgment?



2. According to the applicant, he is innocent person and has falsely been implicated, in this case.

3. Investigation, in the present case, is stated to be completed and the applicant is in judicial custody. All these facts have been pleaded to demonstrate that the custodial interrogation of the applicant, is no longer required by the police.

4. The applicant has further pleaded that he is the sole bread earner of his family and having deep roots in the society.

5. According to the applicant, no contraband has been recovered from him, as, he has been arrested, in this case, on the basis of statement made by the co-accused. As such, it has been pleaded that there is no substantive evidence to connect the applicant, with the crime in question.

6. The applicant had earlier tried his luck by moving similar application, before the Court of learned Special Judge-III, Kangra at Dharamshala, District Kangra, H.P., however, the said application was dismissed, vide order dated 16.07.2025.

7. On the basis of the above facts, Mr. Hanspuneet Singh Kehal, Mr. Bhairav Gupta and Mr. Lovepuneet Singh,



Advocates, appearing for the applicant, have given certain undertakings, on behalf of the applicant, for which, the applicant is ready to abide by, in case, ordered to be released on bail, during the pendency of the trial.

8. Apart from this, the relief of bail has also been sought on the ground of parity, as co-accused Vyas Dev, in the present case has already been released on bail, by this Court vide order dated 19.08.2025, while deciding Cr.MP(M) No.1442 of 2025.

9. Apart from this, it has also been argued by learned counsel appearing for the applicant that the alleged recovery, as per the police, was effected on 07.03.2025 at 7:00-7:30 AM and the applicant was arrested at 7:45 PM, and was produced before the Court on 08.03.2025. All these facts have been highlighted to show that the arrest of the applicant, in the present case, is illegal, as, he has not been produced, before the Court of learned Judicial Magistrate First Class, Nurpur, within 24 hours.

10. On the basis of the above facts, a prayer has been made to allow the application.

10.1. When, put to notice, the police filed the status report, disclosing therein, that on 07.03.2025, a Ruka was



submitted to Police Station, Nurpur, by ASI, Vinay Kashyap, IO, mentioning therein, that he, along with HC Umakant No.50, Manish No.416, C. Sandeep No.415 and Constable Lekh Raj No.254, CIA staff, in his personal vehicle bearing No.HP48A-5130, being driven by the IO, had left Police Station, Nurpur, for patrolling and duty to detect the crime relating to excise and narcotics and picketing. They were having the IO kit, personal laptop of the IO, printer, drug detection kit and electronic weighing machine and had proceeded towards Jassur side. While, on patrolling, when, they reached at Jassur market, then, IO along with other police officials, reached at Police Post, Kandwal at about 8:20 AM, they had put picketing and started checking the vehicles coming from Jassur to Pathankot side. During that process, two persons, who were on their morning walk, reached there and started talking to the IO.

10.2. On inquiry, one person disclosed his name as Narender Kumar, son of late Sai Dass, the then, Pradhan, Gram Panchayat Kandwal, and the other person disclosed his name as Sanjeev Kumar, Pradhan, Gram Panchayat, Varnda. During that period, a white coloured vehicle, being driven by its driver came from Jassur side. On noticing, the picketing,



the driver of the vehicle had stopped the said vehicle at a short distance from the barrier and tried to turn back the vehicle. As such, a suspicion has developed, in the mind of the IO, that there might be some suspicious and stolen articles in the said vehicle. The driver was nabbed and he was directed to park the vehicle, on the side of the road.

10.3 Registration of the vehicle number was found to be PB06AE-4569, make Swift Dzire. Two persons were sitting in the said vehicle. Their names and addresses were inquired in the presence of Narender Kumar and Sanjeev Kumar, upon which, the driver disclosed his name as Amit Kaushal son of Om Prakash Kaushal and other person disclosed his name as Gurpeet Singh, both residents of Amritsar. Thereafter, the IO demanded the license and directed him to produce the requisite documents. When, the driver took out the papers from the dashboard, in that process, a black coloured polythene envelope had also fallen down. The IO developed a suspicion that the said polythene envelope might be containing some suspicious article, as such, Narender Kumar and Sanjeev Kumar were associated, as independent witnesses and the knot of the said polythene envelope was opened.



10.4. On checking, the same was found to be containing stick shaped substance having fungus over it, which, on smelling and experience was found to be Charas. Thereafter, the LED installed in the vehicle was opened. Behind the LED, three black coloured envelopes, having knot over them, were found, which were opened and the same were found to be containing Charas. On weighment, the same was found to be 4 kg 30 grams. Thereafter, after putting the recovered contraband in the same envelope, was put in a white and green coloured carry bag and was sealed with twelve seals of 'U'. Other codal formalities were completed.

10.5. During investigation, applicant-Gurpreet Singh, in the formal inquiry, disclosed that the Charas, weighing 4 kg 30 grams, was given to them, by one Dharam Chand, having mobile phone No.98169-68151. Thereafter, the Ruka, under Sections 20, 25 and 29 of the NDPS Act, was prepared and submitted to the Police of Police Station Nurpur, for registration of FIR, upon which, the FIR in question has been registered. The accused persons were arrested. They were medico legally examined at Civil Hospital, Nurpur.

10.6. Thereafter, contraband, so recovered, along with vehicle, was taken into possession and produced before the SI,



SHO Ashwani Kumar, who, resealed the parcel with three seals of seal 'O'. Thereafter, the accused persons were produced before the Court, from where, they were remanded to police custody for three days. Thereafter, the case property was produced before the competent Court of law, from where, the inventory proceedings were got conducted and the contraband, so recovered, was sent to RFSL, Junga.

10.7. During the police remand, accused persons were interrogated and accused Amit Kaushal son of Om Prakash Kaushal, has disclosed that he is running Tours and Travels Company and used to ply his private Car Maruti Swift Dzire No.PB06AE-4569 as Taxi. He has purchased the said vehicle in the year 2017 from one Gurcharan Singh, through affidavit, on payment of Rs.6,00,000/-, however, the registration of the said vehicle has not been transferred in his name.

10.8. According to him, he is having two mobile phone numbers, bearing No.98885-67016 & 84910-64569. According to him, his father Om Prakash, by profession, is an Advocate at Gurdaspur and his parents are residing at Gurdaspur. His mother, Rajinder Sharma, retired from Education Department, as a teacher and his brother is working in Australian Police and residing at Australia along



with his family members. The accused is residing at Amritsar, along with his wife and daughter. During the business of Tours and Travels, he came in contact with Gurpreet Singh (applicant), in the month of September, 2024 and both were addict of Charas. Whenever, Gurpreet Singh (applicant) needs a vehicle, he used to request him.

10.9. In the month of October, 2024, Gurpreet Singh (applicant) has requested telephonically that finances have been arranged by him and in order to take the payment, he has to go to Jassur, as such, he has requested him to take his vehicle. The rent of the same has been fixed as Rs.4,000/-. Thereafter, they had come to Jassur. When, they had crossed Jasur, during the night time, then, on the road leading to Dhaar, Gurpreet Singh (applicant) was called by someone through phone. The said person handed over 500 grams Charas to him, then, he came to know about the fact that Gurpreet Singh (applicant) is not in the business of finance, but, he is in the business of Charas. However, in order to fetch more benefit and under the pretext of getting the Charas, he used to take Gurpreet Singh (applicant) in the said vehicle. They used to purchase the Charas and Gurpreet Singh



(applicant), used to sell the same at Amritsar in retail. He also used to consume the same.

10.10. On 06.03.2025 according to accused-Amit Kaushal and applicant-Gurpreet Singh had shared his plan by apprising him that they will purchase Charas, in large quantity at once and will not have to come again and again, as such, on the same day, during the night time, he and Gurpreet Singh(applicant) came to Jassur from Amritsar and Gurpreet Singh has telephonically requested a person to come on Dhaar road. On 07.03.2025 at about 6:00 to 6:30 AM, Gurpreet purchased 4 kg Charas @ Rs.45,000/- per kg and Gurpreet Singh (applicant) had paid Rs.30,000/- in cash and rest of the amount was promised to be paid after selling the Charas. He has further disclosed that at about 7:00 to 7:30 AM, after purchasing the Charas, when they were on their way to Amritsar, police intercepted them.

10.11. It is the further case of the police that applicant- Gurpreet Singh alias Lucky, during the police remand, has disclosed that he is addict of Charas and his sister Manisha used to consume Chitta, His father was working in Punjab police, but, he had expired in the year 2002. Whenever, he was having the craving for Charas, then,



he used to purchase the same from one person namely Chima.

About one year ago, he, met Amit Kaushal, who was also addict of Charas. Amit Kaushal used to drive his private vehicle as Taxi. Chima had expired about two months ago. Chima was in judicial custody at Amritsar, in a case involving Charas. Chima has told them that when, he was in judicial custody, one person from Chamba was also lodged there and Chima used to call the said person, as Papaji.

10.12. Chima had disclosed, in case of need of Charas in large quantity, then, Papaji can provide the same. Chima has also given the mobile phone of Papaji, which has allegedly been disclosed by him, as 98166-14936. He has contacted him on his number about six months ago. He also knew the said person by the name of Papaji. He used to contact Papaji and got purchase Charas in small quantity, i.e. 500 grams on 3-7 occasions. Papaji used to deliver the said contraband, through Dharam Chand having mobile phone bearing No.98169-68151. He has disclosed that they used to purchase Charas for a sum of Rs.450/- per 10 grams and sold the same for a sum of Rs.8,000/- per gram at Amritsar to the retailers.



10.13. It is the further case of the police that on intensive investigation, Gurpreet Singh alias Lucky (applicant) disclosed that he had purchased the Charas three times from Dharam Chand, through Papaji. Firstly, he had purchased 500 grams, Secondly 1 kg, and thirdly 3 kg, and this time they had purchased 4 kg, Charas @ Rs. 50,000/- per Kg. Whenever, need arises for purchasing Charas, 3-4 days ago, he used to call Papaji, from his wife's mobile phone No.76968-88919 to the mobile phone of Papaji bearing No.98166-54936. In order to avoid his involvement, he did not use his mobile phone bearing No.82888-23292. He has further disclosed that after his talk with Papaji. Dharam Chand, aged about 50 to 60 years, having the grey hair, used to deliver the contraband at the designated place. He has used his wife's mobile phone, thrice and also used to pay the amount in cash.

10.14. It is the further case of the police that the accused had also identified the place, from where, he used to get the contraband from Dharam Chand. Spot map was prepared.

10.15. It is the further case of the police that CDRs, customer application form and tower locations of mobile phone, bearing No.98169-68151 belonging to alleged Papaji and mobile phone bearing No.9816614926, belonging to



Dharam Chand, were found to be essential, as such, the service providers were requested to provide the said information.

10.16. After receiving CDRs and CAF, it was found that from the mobile phone number of Gurpreet Singh (applicant) bearing No.76968-88919, on 07.03.2025 and earlier on 05.02.2025 and on 18.02.2025 calls were made on the suspicious number 98159-68155. Prior to this, on 05.02.2025 and 18.02.2025, another mobile phone, bearing No.80912-33889 was found to be suspicious, as such, CDRs of the same were obtained.

10.17. On analysis, it was found that from 01.10.2025 (sic) to 07.03.2025, this mobile phone, bearing No.80912-33889 was used in different cell IDs, in District Chamba, but on 18.02.2025 and 07.03.2025, as per Cell IDs, the same was active in Nurpur area. During that period, mobile phone number of Gurpreet Singh alias Lucky, (applicant) bearing No.76968-88919 was found active in Nurpur area.

10.18. It is the further case of the police that on 18.02.2025, at about 3:47 to 5:59 AM, the Cell phone remained active, in Nurpur area, on Cell IDs Nos.404-03-521-



62913, 53581-60673, 53581-60673. On 18.02.2025, again mobile phone bearing No.80912-33889 at about 1:30 PM, was found active in District Chamba, on Cell IDs No.404-03-270-63173. Similarly, on 07.03.2025 at about 4:55 to 5:30 AM, the said mobile phone remained active, in Nurpur area and thereafter, at about 5:47 PM, the same was found in District Chamba.

10.19. On the basis of these locations, their activities were found to be unnatural and suspicious. The police has given the details of their activities, as under:-

(a) On 05.02.2025, applicant-Gurpreet Singh from his mobile phone, bearing No.76968-88919 had contacted Amit Kaushal, on his mobile phone, bearing No.98885-67016 from 1:26 to 1:58 AM. Thereafter, from the said mobile phone, bearing No.76968-88919, on five occasions, contact was made on suspicious mobile phone, bearing No.80912-33889 from 2:20 to 6:35 AM. During that period, regularly, the said mobile phone from 4:31 to 4:34 AM, remained active in Nurpur area and on 6:32 AM, the same was found active in Punjab area. During this period, phone number 80912-33889 was found active in District Chamba and from this mobile phone number, on eight occasions, contact was made with



mobile phone, bearing No.98169-68151 from 2:54 to 8:30 AM.

During that period mobile phone, bearing No.98169-68151 was found active in Nurpur area and thereafter, from 5:47 PM, the same was found active, in District Chamba.

(b) On 18.02.2025, applicant-Gurpreet Singh, from his mobile phone bearing No.76968-88919 has called his co-accused and vehicle driver Amit Kaushal, on his mobile phone bearing No.98885-67016 from 1:52 to 1:59 AM. Thereafter, from phone number bearing No.76968-88919, seven times contact was made on mobile phone bearing No.98169-68151 from 3:45 to 5:13 AM. During that period, the said mobile phone number found active in Nurpur area from 4:32 to 5:13 AM and thereafter, from 7:17 AM, the said phone number was found active in Punjab. During that period, from the suspicious mobile phone bearing No.98159-68151, call was made on another suspicious mobile phone, bearing No.80912-33889 between 3:47 to 5:59 AM, on seven occasions. During that period, mobile phone, bearing No.98169-68151 was found active in District Chamba. During that period, mobile phone, bearing No.80912-33889 was found active in Nurpur area and from 1:38 PM, the same was found active in District Chamba.



(c) It is the further case of the police that on 07.03.2025, applicant Gurpreet Singh has called from his mobile phone No.76968-88919 to the mobile phone of his co-accused Amit Kaushal, bearing No.98885-67016 at about 2:02 AM. Thereafter, Gurpreet Singh (applicant) from his mobile phone No.76968-88919, had called the suspicious mobile phone No.98169-68151 at about 3:54 to 5:10 AM, on nine occasions. During that period, his mobile phone was found to be active in Nurpur area, whereas, he was arrested along with his co-accused Amit Kaushal for 4 kg 30 grams charas at Kandwal. During that period mobile phone No. 98169-68151 and another suspicious mobile phone No.80912-33889, on four occasions, calls were made to each other from 4:55 to 5:30 AM. The mobile phone No.98169-68151 remained active in Nurpur area, whereas mobile phone No.80912-33889 was also active in Nurpur area and from 5:47 PM, the same was again active in District Chamba. Thereafter, mobile phone No.98169-68151 from 07.03.2025 was found switched off, after recovery of the Charas.

10.20. Since the holders of the mobile phones No.98169-68151 & 80912-33889 were found to be suspicious, as phone number 98169-68151 from 07.03.2025, after recovery of the



charas, the same was found to be switched off. Mobile phone No. 98169-68151 was issued in the name of Shankar Singh S/o Pal Singh, who has given the same to Som Dutt S/o Kushi Ram. The said Som Dutt further handed over the same to Dharam Chand. The mobile phone No.80912-33889 was found to be issued in the name of Seema wife of Jagdish Kumar, residents of District Mandi, H.P.

10.21. During investigation, it was found that Seema is daughter of accused Vyas Dev, who has given the said SIM for use, to her mother, however, the same was being used by her father Vyas Dev (applicant) and mother Dilo Devi. Thereafter, the CDRs of both the mobile phones, along with IMEI numbers were obtained and the same were put on tracking. Thereafter, for obtaining IMEI numbers & IPDR, correspondence was made. On tracking IMEI number of phone number 80912-33889, was found to be 863298079031908. At the same time, another sim bearing No.93172-86783 was also being used in the said phone. Thereafter, service provider was requested to provide the information with regard to mobile phone No.93172-86783. The same was found to be issued in the name of Vyas Dev (applicant). Thereafter, on 06.04.2025, the police team, under the leadership of Sub Inspector Neeraj



Kumar, was sent to his village for investigating him, in the presence of Up Pradhan, Bhuvnesh Kumar and Ward Panch, Ashok Kumar and Forest Guard, Vishal. When, the inquiry was being made from him, at about 5:15 PM, three ladies came there and asked the police, as to how, they are inquiring from accused-Vyas Dev, upon which, ASI Neeraj has given his identification to those three ladies. However, the said three women got aggressive and dragged accused-Vyas Dev towards their house. However, accused Vyas Dev was nabbed by handcuffing him and a scuffle had taken place, in which, C. Manish No.416, sustained injuries, accused Vyas Dev also suffered swelling in his right hand, from which, he was handcuffed.

10.22. It is the further case of the police that the said ladies also threatened the police to get them in a false case. Due to their act of causing obstruction in the duty of the public servant and making futile attempt to get accused Vyas Dev fled away, upon which, the police has registered case FIR No.77 of 2025 against those ladies, with Police Station, Sadar Chamba, under Sections 221, 121(1), 132 and 3(5) of BNS.

10.23. During investigation on 07.04.2025, residential house of accused Vyas Dev was searched, but nothing



incriminating was found. accused-Vyas Dev produced the mobile phones, one mobile phone make REDMI A-4 5 G 50 MP AI Camera, bearing IMEI-1 No.863298079031908 and IMEI 2, No.863298079031916 and SIM Nos.9317286783 & 80912-33889 were found in it. He was arrested on 07.04.2025. He was medico legally examined.

10.24. On 08.04.2025, he was produced before the Court of learned ACJM, Nurpur and was remanded to police custody till 11.04.2025. During police remand, matter was inquired from him, upon which, he disclosed that in order to make both ends meet, he used to purchase Charas and sell the same in retail and was earning good income from the said business. For the last four years, he is doing this business with Dharam Chand, son of Sher Singh. Dharam Chand is his cousin and he is having a big two storeyed house in village Kuther. Dharam Chand had given a shop on rent to Sonu Kumar, son of Vyas Dev and Sonu is running a business of photography in the said shop. Dharam Chand is dealing in the business of Charas, on large scale, he was having the links with smugglers of Charas at Bharmour and Churah , who used to deliver the same. About 10-12 years ago, Vyas Dev and Dharam Chand purchased 5-5 Kanals land in village Mehti through Som Dutt



Son of Kushi Ram. Thereafter, they had constructed a room for their residence over the said land and thereafter, at the instance of Dharam Chand, he also indulged in the same activities. Dharam Chand used to deal with the prospective purchaser regarding sale of Charas, through his mobile phone No.98166-14936 and the same mobile phone number has been issued in the name of elder son of applicant-Vyas Dev, namely Sonu, however, Dharam Chand is using the same.

10.25. Apart from this, another mobile phone, whose last digit has been disclosed by him, as 151 was also being used by him. At the direction of Dharam Chand, he used to visit the room at Mehti, where, some unknown person used to deliver Charas to him. Thereafter, Dharam Chand used to direct him to deliver the same at Defence Road Niazpur, by delivering the Charas and receiving the money in lieu of that. At the instance of Dharam Chand, he had delivered the Charas to the buyers at that place. The buyers used to hand over the money in lieu of the Charas by putting the same in a packet and he used to hand over the said packet to Dharam Chand for a sum of Rs.5,000/-, on each occasion. Dharam Chand about 10 years ago, also remained confined in Dharamshala Jail, for three years. Dharam Chand had earned the money



from this business and he is having a cloth shop, orchard and two taxis. He has further disclosed that now, Dharam Chand also opened a School at Dulara under the name and style of Krishana Public School. The elder son of Dharam Chand is running the said School and younger son is in the business of Tour and Travels. He has further disclosed that on 06.03.2025, during the evening time, Dharam Chand came to applicant-Vyas Dev, at his room, at Mehati along with 4 kg Charas, with a direction to hand over the same on 07.03.2025 in the morning hours, to Gurpreet at Defence Road. At that place, he had handed over the Charas to Gurpreet and as usual, Gurpreet had handed over the amount by way of packet, which, he had handed over to Dharam Chand at Mehati in lieu of that, Dharam Chand had paid him Rs.12,000/- at Chamba, which he had spent.

10.26. During investigation, on 09.04.2025, applicant-Vyas Dev had identified the place, where, he had handed over the Charas to Gurpreet. Spot map was prepared. His room was also searched, but, nothing incriminating was found. In order to adjudge the involvement of Dharam Chand, analysis of CDRs was again done and it was found that accused Gurpreet Singh alias Lucky, from his mobile phone No.76968-



88919, remained in touch with Dharam Chand on his mobile phone No.98166-14936, 98169-68151. As per status report, they remained in touch on 04.11.2024, 18.11.2024, 17.12.2024, 30.12.2024, 08.01.2025, 18.01.2025 and 24.01.2025.

10.27. It is the further case of the police that on 25.04.2025, positive result of the contraband was received. Accused Dharam Chand has not yet been arrested, in this case, as such, application to declare him proclaimed offender has been made in the competent Court of law.

10.28. On the basis of the said stand, the relief of bail, as sought by the applicant, has been opposed by the police mainly on the ground that Charas, weighing 4 kg, 30 grams, was recovered, in this case and on the basis of the said recovery, circumstantial evidence, CDRs of the accused persons, it has been found that on 07.03.2025, accused Gurpreet Singh, Amit Kaushal, when, were caught with 4 kg 30 grams Charas and prior to that also, on 04.11.2024, 18.11.2024, 17.12.2024, 30.12.2024, 08.01.2025, 18.01.2025, 24.01.2025, 05.02.2025 and 18.02.2025, the mobile tower locations of mobile phone Gurpreet Singh, Amit Kaushal and



Vyas Dev was found at the same place i.e. Niazpur defence road.

10.29. From the said fact, according to the police, it seems that at the instance of Dharam Chand, applicant-Vyas Dev had handed over 4 kg 30 grams Charas to accused Gurpreet Singh alias Lucky and Amit Kaushal. From the analysis of CDRs, it has also been pleaded that on the above dates, whenever, applicant-Gurpreet Singh and accused Amit Kaushal used to come to Nurpur for purchasing Charas, applicant-Gurpreet Singh called his co-accused Amit Kaushal and probably, a request has been made to him to bring his vehicle, after reaching at Nurpur, Dharam Chand was contacted on his mobile phone Nos.98166-14936 & 98169-68151 and thereafter, Dharam Chand contacted applicant-Vyas Dev, on his mobile phone and probably, he had given direction to applicant-Vyas Dev to deliver consignment of Charas to applicant-Gurpreet Singh and accused Amit Kaushal.

11. On the basis of the above facts, a prayer has been made to dismiss the application on the ground that the involvement of the applicant is proved, in this case, in view of CDRs, tower locations, consumer application form, as well as,



on the basis of the fact that the applicant himself has admitted his involvement in the crime in question.

12. Admittedly, the contraband, allegedly recovered, in this case, falls within the definition of 'commercial quantity.

13. In view of the law laid down by Hon'ble Supreme Court in **Criminal Appeal No.5544 of 2024**, titled as '**Narcotics Control Bureau versus Kashif**', **Citation No.2024 INSC 1045**, before releasing the person, involved in the crime, it is obligatory upon the Court to record the findings, which should be more than *prima-facie* findings, regarding existence of the twin conditions, as enumerated under Section 37(b)(ii) of the NDPS Act. In other words, it can be said that before releasing the person, involved in the crime in issue, findings have to be recorded by the Court, about the fact that accused is not guilty of such offence, and while on bail, he is not likely to commit any offence.

14. The applicant, in the present case, has been found in the Vehicle No.PB06AE-4569, along with Amit Kaushal, who was on wheel. Both of them, were intercepted at Kandwal barrier, where, picketing was done to check the vehicles, coming from Jassur to Pathankot side. On inquiry, the



occupants of the vehicle, i.e. Amit Kaushal and Gurpreet Singh (applicant) disclosed their names and addresses and both were found to be the residents of Amritsar.

15. During search of the vehicle, contraband weighing 4 kg 30 grams charas, was recovered. As such, no benefit could be derived by the applicant from the fact that co-accused-Vyas Dev has been released on bail, as his involvement, in the present case, was found on the basis of alleged revelation, made by the other accused, as well as, on the basis of tower location of the mobile phones of other accused.

16. The alleged revelation made by the co-accused against Vyas Devi was held to be inadmissible in law, in view of the judgment of the Hon'ble Supreme Court in **Tufan Singh versus State of Tamil Nadu**, reported in **(2021), 4 Supreme Court Cases 1**. Whereas, the involvement of applicant, along with co-accused Amit Kaushal, has been found, on the basis of the fact that both of them, have intercepted and nabbed, along with 4 kg 30 grams charas, on 07.03.2025 at 8:20 AM. From the stand, as taken by the police, both Amit Kaushal and Gurpreet Singh, were in the police custody from the date, when, they were intercepted, by the police at 8:20 AM. The



applicant was arrested on 07.03.2025 at 7:45 PM and there is difference between police custody and arrest.

17. Hon'ble Apex Court in **Vikram Singh and ors** versus **State of Punjab; AIR 2010 Supreme Court 1007** have distinguish between the word 'arrest' and the word 'custody' as used in Section 27 of the Evidence Act. Relevant Paras-12 & 16 of the judgment are reproduced as under:-

"12. Mr. Sharan has, however, referred us to Section 46(1) of the Code of Criminal Procedure to argue that till the appellants had been arrested in accordance with the aforesaid provision they could not be said to be in police custody. We see that Section 46 deals with 'Arrest how made'. We are of the opinion that word "arrest" used in Section 46 relates to a formal arrest whereas Section 27 of the Evidence Act talks about custody of a person accused of an offence. In the present case the appellants were undoubtedly put under formal, arrest on the 15th February 2005 whereas the recoveries had been made prior to that date but admittedly, also, they were in police custody and accused is an offence at the time of their apprehension on the 14th February 2005. Moreover, in the light of the judgment in the Constitution Bench and the observation that the words



in Section 27 “accused of any offence” are descriptive of a person making the statement, the submission that this Section would be operable only after formal arrest under Section 46(1) of the Code, cannot be accepted. This argument does not merit any further discussion.

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16. It is also significant that Jasvir Singh also disclosed that he had kept concealed the dead body in the fields of village Daulatpur and that it had been removed from Darshan Kaur’s house in the Chevrolet car belonging to him and the three appellants had further revealed that the dead body had been disposed of in the fields of village Daulatpur and the dead body was recovered and taken into possession by Memo Ex.PGGG signed by Manohar Lal as also Sub-Inspector Jeevan Kumar. We are unable to accept Mr. Sharan’s bare submission that the evidence of Manohar Lal and Sub-Inspector Jeevan Kumar should not be believed as they were interested in the successful outcome of the prosecution, as no other material adverse circumstance has been brought to our notice.”

18. Full Bench of Hon’ble Lahore High Court in **Hakam Khuda Yar** versus **Emperor; AIR 1940 Lahore 129**, have also defined the word ‘custody’ and held that the police custody



does not necessarily means custody after formal arrest.

Relevant portion of the judgment is reproduced as under:-

“..... As regards the first point, the term "custody" is not defined either in the Criminal Procedure Code or in the Evidence Act. There is, of course, no doubt that an accused person will be in the "custody" of the police after his arrest; but the question is whether he can be considered to be in "custody" at any time earlier, when he has not been formally arrested, but is merely detained by the police for the purpose of the investigation. Section 27 is anomalous in so far as it applies only to information leading to a discovery when received from an accused person in the custody of the police, but not if he is not in the custody of the police. If the information is relevant when it comes from a person in the custody of the police, there seems no good reason why it should not be so when it comes from an accused person, who is not in the custody of the police and therefore not under the influence of the police. The real intention of the Section very probably is to make information from an accused person which leads to discovery relevant even when the person is in police custody. But the language of, the Section makes such information relevant only when it comes from an accused person in the custody of the police.



The language used in the Section thus leads to the curious result probably never intended--that when such information is given by an accused person, who is not in the "custody" of the police it will not be covered by the Section. However, apart from the above anomaly, the intention of the Section seems, I think, clear enough and that is to make information leading to a discovery relevant, even when it comes from an accused person who is in the custody of the police and thus subject to police influence. Ordinarily information coming from an accused person, who is liable to be influenced by the police will be open to suspicion. But if the information leads to the discovery of a relevant fact, that discovery is considered to be a guarantee of the truth of the information as has been pointed out already and hence such information is made relevant by Section 27. Now there can be little doubt, that even before his formal arrest, an accused person, who is detained by the police owing to suspicion against him, is liable to be influenced by the police. This Court has therefore put a wide interpretation on the word "custody" as used in Section 27. In AIR 1933 Lah 609, it was held by a Division Bench of this Court consisting of Sir Shadi Lal and Coldstream J. that 'police custody' does not necessarily mean custody after formal arrest and that it also includes 'some form of police surveillance and



*restriction on the movements of the person
concerned by the police.”*

19. In such situation, when, as per the stand of the police, the applicant was arrested on 07.03.2025 at 7:45 PM, and was produced before the Court of 08.03.2025, this Court is of the view that there is nothing on the file to demonstrate that there is violation of the provisions of the Section 187 of BNSS.

20. In view of above, at this stage, there is nothing on the file to enable this Court to record the findings, which would be more than *prima-faice* findings, qua the fact that the applicant is not guilty of such offence and while, on bail, he will not commit any offence.

21. In the absence of the findings, as enumerated, under Section 37(b)(ii) of the NDPS Act, the applicant is not entitled for the relief of bail, as claimed, in the application. Consequently, the bail application is dismissed.

22. Any of the observations, made hereinabove, shall not be taken, as an expression of opinion, on the merits of the case, as, these observations are confined only to the disposal of the present bail application.

(Virender Singh)
Judge

November 28, 2025
(subhash)