



CRM-M-42284-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-42284-2023 (O&M)

Date of Decision : 19.11.2024

SATYAM SOOD

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. R.S.Bains, Senior Advocate with
Mr. Naveen Kumar Kuhad, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana and
Mr. Anmol Malik, DAG Haryana.

KIRTI SINGH, J.(Oral)

Apprehending arrest in FIR No.409 dated 26.07.2023 under Sections 21/27-A/29-61-85 of NDPS Act registered at Police Station Ambala Cantt., District Ambala, the petitioner has preferred this petition under Section 438 of Cr.P.C. for grant of anticipatory bail.

2. The contents of the above-mentioned FIR are reproduced herein below :-

“To, SHO Police Station Ambala Cantt., Jai Hind, Sir, Today on 25.07.2023, me, P/SI Rohit Kumar, Police Station Ambala Cantt. along with SI Harinder Singh No. 106, ASI Raghubir Singh No. 193, HC Rajesh Kumar No. 48, HC Gurmail Singh No. 253, EHC Shankar No. 1601 in Government vehicle bearing no. HR37-C-6370 driven by SPO Gurwinder Singh No. 128 were on patrolling duty in uniform along with Laptop, Printer, Folding Barricades and investigation bag at 11:15 PM from Police Station Ambala Cantt towards Sadar Bazar, Ambala Cantt.,



Auto Stand Ambala Cantt., Nikelson Road Ambala Cantt., were present at Gurgudia drain bridge, Jagadhri Road Ambala Cantt., at 12:30 AM on 26.07.2023 and in the meanwhile secret informer informed P/SI Rohit Kumar that Dishant Kumar son of Om Parkash is resident of Jali Mill, Ambala Cantt., Police Station Ambala Cantt, District Ambala and as per the instructions of Satyam Chadha son of Anil Chadha, resident of Ahluwalia Building, Ambala Cantt., District Ambala, Waris son of Kamal Kishore, resident of Kaccha Bazar, Ambala Cantt., District Ambala, Lakhan Kumar son of Vinod Kumar, resident of Dina Ki Mandi, Ambala Cantt., District Ambala and Vicky son of Ashok Kumar, resident of Rana Park, behind B.D. Floor Mill, Mahesh Nagar, Ambala after taking money from them brings intoxicating substance (Smack) from Delhi in his car bearing no. HR85-B-3044 Mark i-20 White colour. Today also, he has gone to Delhi to bring intoxicant substance (Srnack) in his car bearing no. HR85-B-3044 Mark i- 20 White colour and after sometime he is going towards his home Jali Mill Ambala Cantt. from cremation ground Jagadhri Road, Ambala Cantt with huge quantity of intoxicant substance/smack in his car. If barricading is done near cremation ARUN SINGH RAWAT ground, Jagadhri Road, Ambala Cantt., he can be apprehended with huge quantity of intoxicant substance/smack. The information given by the secret informer solid and reliable and on that P/SI Rohit Kumar prepared or information letter and sent for the information of SHO Police Station Ambala Cantt. to EHC Shankar no. 1601 and prepared a notice under Section 42 of INDPS Act separately and sent the same through HC Rajesh Kumar No.48 to Sh. Ashish Choudhary HPS, DSP Ambala Cantt, and his residence GO Mess Ambala City. P/SI Rohit Kumar requested the passerby to join the barricading but every one left by telling their valid reason. Thereafter, P/SI Rohit Kumar started doing barricading after opening the folding barricades with the help of accompanying police official. After some time, a car bearing no. HR85-B-3044 Mark i-20 of White Colour was seen coming towards Round Circle (Gol Chakkar) Ambala Cantt., to which the secret information signaled to P/SI Rohit Kumar and thereafter, with the help of accompanying police official, he was apprehended. P/SI Rohit Kumar took out the key of the car bearing



no. HR85-B-3044 Marka i-20 of White Colour and keep it with him. P/SI Rohit Kumar asked the name and address of the young man sitting on the drive seat. On asking by P/SI Rohit Kumar, he disclosed his name and address as Dishant Kumar @ D.K. son of Om Parkas, resident of H.No. 6353/31, Jali Mill, Ambala Cantt, Police Station Ambala Cantt., District Ambala. P/SI Rohit Kumar disclosed his identity to him and told that we have received the information that you are having intoxicant substance/smack in your car and you have a legal right to get your search to be conducted in the presence of any Magistrate or Gazetted officer and he can be call at the spot. On that P/SI Rohit Kumar prepared the notice under Section 50 of NDPS Act separately and read over the same to him and make understand to him. Dishant Kumar mentioned above, gave his consent for conducting his search through Gazetted Officer and the notice mentioned above was signed by Dishant Kumar and witnesses. The consent memo was prepared sedately and the same was signed by Dishant Kumar mentioned above and the witnesses. On that P/SI Rohit Kumar called from his mobile number 4569901815 to Sh. Ashish Choudhary HPS, DSP Ambala Cantt. on his official no. 9729990103 at 1:40 AM and after informing him facts of the case requested to come at the spot. On that Sh. Ashish Choudhary HPS, DSP Ambala Cantt directed P/SI Rohit Kumar to bring Dishant Kumar mentioned above along with his car at his residence G.O. Mess, Ambala City. Thereafter, P/SI "Rohit Kumar with the help of accompanying police official lift Dishant Kumar from driver seat and made him to seat on the back seat of car bearing no. HR-85- B-3044 Marka i-20 of White Colour and himself drive the car along with government vehicle and proceeded towards G.O. Mess Ambala City at 1:45 AM. P/SI Rohit Kumar along with vehicle no. HR-85-B-3044 Marka i-20 of white colour along with Dishant Kumar mentioned above and accompanying police officials reached at the residence of Sh. Ashish Choudhary, HPS, DSP Ambala Cantt., G.O., Mess, Ambala City at 2:13 AM where Sh. Ashish Choudhary HPS, DSP Ambala Cantt was found present and FVSI Rohit Kumar informed about the facts till now and presented the notice under Section 50 of NDPA Act before him. Thereafter, Sh. Ashhish Choudhary HPS, DSP Ambala Cannt. Disclosed his identity to Dishant Kumar



mentioned above and told that I am Ashish Choudhary, HPS, DSP Ambala Cantt. Thereafter, Ashish Choudhary HPS, DSP Ambala Cantt seen the consent form prepared under Section 50 of NDPA Act and thereafter, Ashish Choudhary HPS, DSP Ambala Cantt conducted the search of P/SI Rohit Kumar as per law regarding secret information and P/SI Rohit Kumar conducted the search of SI Harinder Singh No. 106, ASI Raghubir Singh No. 193, HC Gurmail Singh No. 253/Ambala as per law and instructions of Ashish Choudhary HPS, DSP Ambala Cantt. On the search, nothing objectionable was found from their possession except the articles of daily needs. Ashish Choudhary HPS, DSP Ambala Cantt directed to conduct the search of Dishant Kumar mentioned above in his presence. On the search of Dishant Kumar from the right pocket of the Jeans of blue colour, two mobile phones, one marka ONEPLUS of green colour and another OPPO were recovered. As per disclosure of Dishant Kumar, in ONEPLUS phone was having SIM No. 8131029274 and Whats-dip No. +447443081296 and OPPO mobile phone was having SIM No. 9729851645. From the left pocket of his Jeans Rs. 1150/- were found and on the search of car bearing no. HR-85-B-3044 Mark 1-20 of White Colour, a black polythene containing intoxicant substance in the form of Sweet (Laddu) were found under the driver seat. The said intoxicant substance in the form of sweet (Laddu) was found to be heroin (smack) on the basis of experience of P/SI Rohit Kumar and Sh. Ashish Kumar HPS, DSP Ambala Cantt and as per the disclosure made by accused Dishant Kumar. Accused Dishant Kumar mentioned above, on demand could not produced any license for permit. On doing the weight of intoxicant substance recovered from Dishant in electronic weighing machine it was found to be 1Kg. 13 grams along with polythene of black colour. The recovered heroin (smack) along with black colour polythene back was put into plastic box and a separate memo was prepared by putting the same in a white colour clothe. The recovery memo was sealed with RS/3 by P/SI Rohit Kumar and sample seal RS/1 was prepared separately and Sh. Ashish Choudhary HPS, DSP Ambala Cantt also put his seal AC/1 on the recovery memo and also put his seal AC/1 on sample seal and after using, kept it with him. P/SI Rohit Kumar after using his seal RS/1 and



preparing the sample seal, handed over the same to SI Harinder Singh NO. 106. The recover intoxicant 1 Kg. 13 grams along with black colour polythene, mobile phone ONEPLUS OF green colour long with SIM and mobile Phone OPPO of Grey Colour along with SIM, Rs. 1150/- of Current note and car bearing no. HR-85-B-3044 Mark 1-20 of white colour and sample seal were taken into police possession as evidence. Recovery memo was prepared separately. Accused Dishant Kumar and the witnesses put their respective signatures on the recovery memo. The recovery memo of case property, heroin (smack) and sample seal were attested by Sh. Ashish Choudhary HPS, DSP, Ambala Cantt. On inquiry by P/SI Rohit Kumar of accused Dishant Kumar, he told that I often brings heroin/smack on the asking of Satyam Chadha son of Anil Chadha, resident of HNo. 6341/4, Ahluwalia Building, Near Gandhi Market, Ambala Cantt., District Ambala, Waris son of Kamal Kishore, resident of Kaccha Bazar, Ambala Cantt, district Ambala, Lakhan Kumar son of Vinod Kumar, resident of near Basanti Mai Mandir, Dina Ki Mandi, Ambala Cantt and Vicky son of Ashok Kumar, resident of Rana Car behind B.D. Floor Mill, Mahesh Nagar who are doing the business of selling the drugs. I have brought the said drugs on their asking from one Nazarian from the place told by them and hand over the heroin to Satyam, Waris, Lakhan and Vicky after reaching at Ambala. They all four further supply the same, near the area of Ambala Cantt. Abovementioned all four pay the money for the said heroin and to me also maximum money is given by them. I am doing this work for the last long time after taking money from them. The heroin recovered from me today also belongs to all four of them. Satyam Chadha is the kingpin of selling this entire intoxicant and for the said purpose Satyam Chadha has given me one mobile phone Marka ONEPLUS of green colour having SIM No. 8131029274 and whatsapp no. +447443081296 and from these numbers I often talk with Satyam Chadha through whats-app call. Dishant Kumar mentioned above and Satyam Chadha son of Anil Chadha, resident of H.No. 6341/4, Ahluwalia Building, Near Gandhi Market, Ambala Cantt, District Ambala, Waris son of Kamal Kishore, resident of Kaccha Bazar, Ambala Cantt., District Ambala, Lakhan Kumar son of Vinod Kumar, resident of Near Basanti Mai Mandir, Dina



Ki Mandir, Ambala Cantt., District Ambala and Vicky son of Ashok Kumar, resident of Rana Park behind B.D. Floor Mill, Mahesh Nagar, Ambala Cantt in connivance with each other have committed offence under Sections 21, 27A, 29-91-85 of NDPS Act for keeping in possession 1 Kg. 13 grams of heroin by accused Dishant Kumar without any license/permit. On that P/SI Rohit Kumar wrote a note and sent the same to Police Station Ambala Cantt. through Gurinail Singh No. 253 for registration the FIR and to inform about the FIR number. Thereafter, special reports were sent to Senior Police Officials. The senior police officials be informed about the facts and as per the orders of Hon'ble Supreme Court, SHO be informed regarding sending another Investigating officer for further investigation at spot, NED COPY OF THE Cremation Ground, Jagadhri Road, Ambala Cantt. P/SI Rohit Kumar is busy in investigation. Today, G.O. Mess Ambala Shahar, Sd/- Rohit Kumar P/SI, Ambala Cantt.

3. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case, primarily based on a disclosure statement. It is contended that the police have been consistently targeting the petitioner in false cases without any substantive evidence. It is further argued that there are no call records or other forms of contact linking the petitioner to the co-accused, including Dishant Kumar, apart from Lakhan, who is his brother-in-law. The petitioner denies any involvement in the alleged recovery of contraband and contends that the police have fabricated the case against him.

4. Per contra, learned State counsel vehemently opposes the petition and submits that the petitioner is directly involved in the drug trafficking network, he submits that a secret information was received regarding the smuggling of heroin by petitioner and co-accused and pursuant to this secret information a barricading was laid which led to significant recovery of 1 kg and 13 grams of heroin made



offender with a criminal history spanning 11 other cases since 2018. The petitioner has been involved in multiple criminal cases, including violations under the Arms Act, IPC (hurts, snatching, and attacks on government officers), and the NDPS Act. It is also stated that in compliance to order dated 04.04.2024 of this Court, the accused petitioner joined investigation but the petitioner failed to cooperate in the investigation particularly refusing to disclose details about K.C., a foreign national believed to be the main supplier of heroin to the petitioner. The State contends that custodial interrogation of the petitioner is essential to uncover the source of the heroin supply and to further the investigation.

The detail of the cases registered against the petitioner is as under:-

Sr. No.	FIR No. Date	Under Section	Police Station	Status
1.	143 Dated 06.04.2018	148, 149, 323, 506 IPC	Ambala Cantt.	21.10.2024 for PWs
2.	575 Dated 01.01.2019	25 Arms Act	Ambala Cantt.	22.11.2024 for PWs
3.	08 Dated 06.01.2020	25 Arms Act	Ambala Cantt.	16.10.2024 for PWs
4.	303 Dated 17.05.2022	21 NDPS Act	Ambala Cantt.	04.11.2024 for Charge
5.	745 Dated 15.12.2022	21 NDPS Act	Ambala Cantt.	04.11.2024 for Charge
6.	750 Dated 19.12.2022	21 NDPS Act	Ambala Cantt.	17.12.2024 for appearance
7.	176 Dated 28.03.2023	21 NDPS Act	Mahesh Nagar	29.10.2024 for charges
8.	225 Dated 22.08.2020	323, 379-B, 427, 120-B IPC	Parao	13.02.2025 for PWs
9.	131 Dated 24.02.2023	61-4-20 Ex Act 186, 332, 353 IPC, 25-54-59 Arms Act	Ambala Cantt.	25.11.2024 for PWs
10.	252 Dated 24.06.2024	148, 149, 307, 324, 506 IPC	Ambala Cantt.	12.11.2024 for appearance
11.	140 Dated 31.03.2024	21 NDPS Act	Mahesh Nagar	09.12.2024 for appearance



5. Learned State counsel has relied upon the judgment passed by the Co-ordinate Bench of this Court vide order dated 16.01.2024 in CRM-M-65130-2023 titled as “*Ajay Singh Vs. State of Haryana*” and has also relied upon the law laid down by the Hon'ble Supreme Court in the matter of "*State of Haryana Vs. Samarth Kumar*", 2022 LiveLaw (SC) 622, wherein the Hon'ble Supreme Court has held as under:-

"4. The High Court decided to grant pre-arrest bail to the respondents on the only ground that no recovery was effected from the respondents and that they had been implicated only on the basis of the disclosure statement of the main accused Dinesh Kumar. Therefore, reliance was placed by the High Court in the majority judgment of this Court in Tofan Singh v. State of Tamil Nadu reported in (2021) 4 SCC 1.

5. But, it is contended by the learned Additional Advocate General appearing on behalf of the State of Haryana that on the basis of the anticipatory bail granted to the respondents, the Special Court was constrained to grant regular bail even to the main accused-Dinesh Kumar and he jumped bail. Fortunately, the main accused-Dinesh Kumar has again been apprehended. According to the learned Additional Advocate General, the respondent in the second of these appeals is also a habitual offender.

6. Learned counsel appearing on behalf of the respondent in the first of these Appeals contends that the State is guilty of suppression of the vital fact that the respondent was granted regular bail after the charge-sheet was filed and that therefore, nothing survives in the appeal. But, we do not agree.

7. The order of the Special Court granting regular



bail to the respondents shows that the said order was passed in pursuance of the anticipatory bail granted by the High Court. Therefore, the same cannot be a ground to hold that the present appeals have become infructuous.

8. *In cases of this nature, the respondents may be able to take advantage of the decision in **Tofan Singh v. State of Tamil Nadu (supra)**, perhaps at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial."*

6. Learned State counsel has also placed on reliance on the 5 order passed by the Hon'ble Supreme Court in the matter of **Parwinder Singh Parminder Kumar @ Vicky Vs. State of Punjab** arising out of S.LP. (Crl.) No. 12601 of 2023, wherein the Hon'ble Supreme Court has held as under:-

4. *It is true that it is a case of recovery of non-commercial quantity of the contraband and as such rigors of Section 37 of the NDPS Act are not attracted. It is also a matter of record that a coordinate Bench of this Court granted interim protection to the appellant on 06.10.2023 and pursuant thereto, he joined the investigation, which is now complete. The Chargesheet has also been filed. The question, however, that arises for consideration is whether the appellant deserves to be extended the benefit of pre-arrest bail in a case of recovery of contraband like heroin and when he is also found involved in one more case under the NDPS Act?*

5. *Having heard learned counsel for the parties, we are of the considered view that the parameters of granting bail in a case under special statutes like NDPS Act may not be liberally construed in the instant case. We say so taking notice of the fact that the State of Punjab is reeling*



under the grip of drug menace. There are several drug lords whose roots are identifiable in the State of Punjab, and who operate in the cross-border drug racketing and organized trafficking of narcotic drugs and psychotropic substances. It is a matter of common knowledge that huge cache of illicit drugs is smuggled across the border. Some local Pharmaceutical Industries, State police officials and other affluent people have been suspected to be involved, at occasions, in international drug trafficking. The drug addiction has posed a serious threat to the once vibrant state of Punjab. The Courts, therefore, ought to be highly circumspect while granting bail, especially to a repeat offender. The appellant, as it seems from the allegations, is a drug peddler and there is every likelihood of his returning to the same illicit trade once he is allowed the privilege of pre-arrest bail.

6. We are, thus, of the opinion that the appellant does not deserve the concession of anticipatory bail. However, the appellant, like his co-accused, shall be at liberty to apply for regular bail. If such an application is moved, the same shall be decided by the learned Special Judge as early as possible and preferably within two weeks.

7. Heard the rival submissions made by learned counsel for the parties and perused the record.

8. Coming back to the facts of the present case, other than the present FIR in which the petitioner has been nominated as an accused on the basis of the disclosure statement of a co-accused, there are 11 other cases registered against the petitioner. It is highly unlikely that the petitioner would have been implicated in multiple FIRs at the whims and fancies of the Investigating Agency.

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9. It is apparent from the record that the petitioner is involved in five more cases under NDPS Act and the Hon'ble Supreme Court has held in various judgments that the Courts should be circumspect in granting bail to such offenders, who are involved in more than one case of NDPS Act.

10. In fact, when there are multiple FIRs against an accused over a significant period of time, then the twin conditions as envisaged under Section 37 of the NDPS Act that he had not committed an offence and was not likely to commit an offence cannot be satisfied. Further, the limitation to the grant of bail under Section 37 of the NDPS Act are in addition to those prescribed under the Cr.P.C. or any other law in force on the grant of bail. Thus, a habitual offender is not entitled to the grant of bail even under the provisions of the Cr.P.C. keeping in view his criminal antecedents. On the contrary, in such cases, where anticipatory bail is sought the custodial interrogation is certainly necessary even though the accused may have joined investigation at an earlier stage.

11. Keeping in view the conduct of the petitioner and his criminal antecedents, his custodial interrogation would certainly be necessary to effect recoveries and to take the investigation to its logical conclusion.

12. In view of the above, I find no merit in the present petition. Therefore, the same stands **dismissed**.

13. Pending application(s), if any, also stands disposed of accordingly.

19.11.2024

Kavita

(KIRTI SINGH)
JUDGE