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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-48476-2024****Date of Decision: 16.10.2024**

Raj Kumar @ Raju

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Amit Choudhary, Advocate
for the petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

N.S.Shekhawat J.

1. The petitioner has filed the present petition under Section 482 of B.N.S.S.with a prayer to grant anticipatory bail to him in case FIR No. 228 dated 17.08.2024, registered under Sections 15/27-A/61/85 of NDPS Act, Police Station City Ratia, District Fatehabad, (Annexure P-1).

2. The FIR in the present case was registered on the basis of the statement made by ASI, Bhupender Singh and the same has been reproduced below:-

“To the SHO Police Station Sadar Ratia, Jai Hind. Today I ASI alongwith ESI Rajesh Kumar NO. 21, SPO Roudh Singh No. 118 alongwith personal laptop and printer and investigating kit and a bag on a private vehicle bearing registration No. HR-220-0344 Creta driven by me, were present on patrolling and going towards Ralta Khera Minor from Sardulgarh Road adjacent to the Raw Strip towards Ratta Khera and moving little bit ahead, and one person was seen coming from the opposite side on the same Raw



strips and was carrying one plastic bag of white colour in his right hand. Who after seeing the police party suddenly become conscious and turned back and started brisk walking who was stopped by me ASI on the basis of suspicion by taking the private car in front of him and after alighting from the car with the help of fellow officials and apprehended him alongwith plastic bag of white colour and asked him why he turned back but he could not give any satisfactory reply. I ASI asked his name then he disclosed his name Gurcharan Singh @ Channa son of Mehar Singh son of Banyam Singh resident of Ward No. 50, Employees Colony Ratia, Tehsil Ratia District Fatehabad I ASI having suspicion that Gurcharan Singh @ Channa above said and a plastic bag which he was carrying in his right hand of white colour having some intoxicating substance, after giving my introduction gave a notice under Section 50 of NDPS Act to Gurucharan Singh @Channa above said I ASI Bhupidner Singh No 140 P.S. Ratia informed you Gurcharan Singh @ Channa son of Mehar Singh son of Bariyam Singh resident of Ward No. 50. Employees Colony Ratia.Tehsil Ratia District Fatehabad through this notice that I having suspicion that you and the plastic bag of white colour which is in your right hand having some intoxicating substance, I want to conduct your search and the search of your plastic bag which is in your right hand of white colour. It is your legal right that if your want to conduct of your personal search and the search of plastic hand which is your hand of white colour through gazetted officer and Illaqa magistrate then for conducting the search the plastic of bag which in your hand, could be produced before him. Give your consent On which Gurcharan @ Channa above said after going through the notice given under Section 50 of NDPS Act given al my instance gave reply to the notice that Gurcharan Singh Channa son of Mehar Singh son of Bariyam Singh resident of Ward No. 50. Employees Colony Ratia. Tehsil Ratia District Fatehabad have



totally undergone the notice given u/s 50 of NDPS Act, I want to conduct of my search and the search of white pisatorc bag colour which in my hand in front of gazetted officials, you call the gazetted official on the spot and conduct my search and search of plastic bag which is my right hand". On notice and reply to the notice Gurcharan Singh @ Channa above said and the witnesses have signed. After the proceedings of notice and reply to the notice, I have called from my personal mobile number 97281-97506 al about 5 PM to the Duty Officer Sh. Krishan Lal Verma AETO, Deputy Excise Taxation Commissioner Fatehabad on his mobile No. 98121-21150 and narrated the factual situation and requested him to come on the spot. At about 7:15 PM Sh Duty Officer Sh. Krishan Lal Verma AETO, Deputy Excise Taxation Commissioner Fatehabad along his Government vehicle Ertiga No. HR-22GB-3862 alongwith his driver reached on the spot who is apprised by me notice and reply to the notice and produced Sh. Gurcharan Singh @ Channa above said and the plastic bag which he was carrying bag of white colour alongwith witnesses. Who after giving his introduction and after going through the notice and reply to the notice and interrogated the apprehended Gurcharan Singh @ Channa and the witnesses. and directed me ASI to conduct the search of Gurcharn Singh @ Channa and Plastic bag of white colour which he was carrying in his right hand. On the spot passerby's were tried to join in proceedings but everybody has shown their inability and went away from the spot without disclosing their identity. Thereafter for conducting the videography of the recovery on the spot, I handed over my mobile to SPO Roudh Singh No. 118 who started conducting videography. Thereafter I conducted the search of Guruchran Singh @ Channa above said and checked the plastic bag of white colour which he was carrying in his hand then in which poppy straw was recovered. The recovered plastic bag of white colour was weighed



with a computerized weighing scale which is lying in private car then the weight of plastic bag comes to 3 KG of Poppy Straw. The recovered plastic bag of Poppy straw of white colour was converted into parcel and I sealed the parcel of poppy straw with Seal BS/3 and the sample seal was separately prepared. Sh. Krishan Lal Verma AETO, Deputy Excise Taxation Commissioner Fatehabad have also affixed his seal KK/1 on the parcel of poppy straw and sample seal was also prepared and I taken into police custody the parcel of poppy straw and sample seal by preparing the seizure memo. On seizure memo accused Gurcharan Singh @Channa and the witnesses have been signed. I handed over the seal after use to ESI Rajesh Kumar No. 21 and Sh. Krishan Lal Verma AETO, Deputy Excise Taxation Commissioner Faridabad kept his seal after use. Sh Krishan Lal Verma AETO. Deputy Excise Taxation Commissioner Fatehabad have attested the notices, seizure memo, the parcel of poppy straw and the sample seal Videography will be prepared the same will be used in the proceedings. Accused Gurcharan Singh @ Channa has committed the offence under Section 15/61/85 of the NDPS Act having the custody of 03 Kg of Poppy straw in his possession”.

3. Learned counsel for the petitioner contends that in the present case, Gurcharan Singh @ Channa, co-accused was apprehended by the police and the 03 Kgs of poppy husk was recovered from him. During his interrogation, he allegedly suffered a disclosure statement to the effect that he had purchased the recovered contraband from the petitioner. Learned counsel further contends that except the disclosure statement suffered by the co-accused, no other evidence was on record to connect the petitioner with the crime in any manner. He further contends that the FSL report is yet to be received and in the absence of



the report, it could not be said that the recovered contraband was poppy husk. He further contends that the petitioner has been falsely involved in the present case at the instance of SHO Police Station, City Ratia, as an amount of Rs.25,000/- per month was demanded from him by the police officials. However, the petitioner did not obey the commands of the SHO and he has been falsely implicated in the present case. Learned counsel also relied upon the order passed by the Hon’ble Supreme Court in SLP (criminal) 6811 of 2024, wherein the Hon’ble Supreme Court had granted the concession of anticipatory bail to an accused, who was also facing other cases. The petitioner has also mentioned that he is involved in nine more cases and out of those cases, four cases were registered under the provisions of NDPS Act.

4. On the other hand, learned State counsel, filed a status report by way of an affidavit of DSP, Bhuna, Fatehabad and submitted that the petitioner is a habitual offender. During the course of investigation, Gurcharan Singh @ Channa accused stated that he had purchased 03 Kgs of poppy husk for a sum of Rs.14,000/- from the petitioner and Subhash. Still further, the petitioner was involved in nine other criminal cases, out of which four cases were registered under the provisions of NDPS Act and details were as follows:-

FIR No. and Dated	Under Sections	Police Station	Sentence
254, 20.10.2020	15/61/85 of NDPS Act	City, Ratia	Pending under trial
232, 15.09.2021	15/61/85 of NDPS Act	City, Ratia	Pending under trial
94, 03.04.2023	15/61/85 of NDPS Act	City, Ratia	Pending under trial
134, 19.05.2024	15/61/85 of NDPS	City, Ratia	Pending



	Act		under trial
411, 12.05.2017	Gambling Act	Ratia	Convicted
631, 29.12.2017	Gambling Act	Ratia	Convicted
296, 08.06.2018	Gambling Act	Ratia	Convicted
514, 19.09.2018	Gambling Act	Ratia	Convicted
33, 06.02.2020	Gambling Act	Ratia	Convicted

Learned State counsel further submitted that the custodial interrogation of the petitioner is required to reveal the entire drug racket and to recover the entire amount of Rs.14,000/-.

5. I have heard the learned counsel for the parties and with their able assistance, I have gone through the Court record carefully.

6. The petitioner has relied upon the order dated 15.05.2024 passed by the Hon’ble Supreme Court in SLP (criminal) 6811 of 2024 titled as “*Sukhwinder Singh @ Sukhvinder Singh Vs. State of Haryana*”, wherein the concession of anticipatory bail was granted to accused, however, the facts of the said case are entirely different. In the said case, the accused was granted interim anticipatory bail six years ago, and after six years, the bail application was dismissed, when the trial was at the fag end. Thus, the said order is not applicable to the facts of the present case. In the present case, Gurcharan Singh @ Channa was arrested by the police and he clearly alleged that the recovered contraband was supplied to him by the present petitioner for a sum of Rs.14,000/- The petitioner is already facing four criminal cases under the NDPS Act and has been convicted in five criminal cases under Gambling Act. The petitioner was granted the concession of regular bail on 18.06.2024 by the Additional Sessions Judge, Fatehabad in case FIR No. 134, dated 19.05.2024,



under Sections 15(b), 27-A, 61/85 of the NDPS Act, Police Station City Ratia and within a period of two months of release on bail in NDPS case, he was again involved in the smuggling of narcotics substances. The Hon'ble Supreme Court has held in number of judgments that such repeat offenders, who are involved in smuggling of contraband should not be granted the concession of anticipatory bail. In the present case also, the custodial interrogation of the petitioner is utmost essential to unearth the entire racket of smuggling of contraband; to know about Subhash co-accused and to recover the amount of Rs.14,000/- from him. Even, the petitioner is a habitual offender and the courts should always be slow in granting the concession of anticipatory bail to such offenders.

7. Thus, the present petition deserves to be dismissed by this Court.

16.10.2024

hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No