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

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Date of Decision : 17.12.2024

Baljinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MS. JUSTICE KIRTI SINGH**Present: Mr. Anmol Puri, Advocate  
for the petitioner.

Mr. R.S. Thind, DAG Punjab

**KIRTI SINGH, J.(Oral)**

1. Apprehending arrest in FIR No.147 dated 07.09.2024, under Sections 21, 29 of NDPS Act registered at Police Station Sadar Samana, District Patiala, the petitioner has preferred this petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail.

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

*"At this time, it is recorded that on written Ruka ASI Nrata Ram 2624 Pat: Chowki Mavi Kalan PS Sadar Samana through diary case against Gurcharan Singh son of Singh Hansa and Balwinder Singh @ Balli son of Avtar Singh, residents of Village Marori, PS Sadar Samana. District Patiala u/s 21, 29, 61, 85 NDPS Act, has been receive in police station by hands of constable Sahib Singh 30217, contents of which are as under, "Today, I ASI Ranjit Singh 19/ Pat, constable Lakhwinder Singh 3482/ Pat, PHG Jaswant Singh 18342, PHG Sahib Singh 30217 on government vehicle bearing number PB-*



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11-AT- 2318, driven by PHG Ajit Singh 30090, alongwith laptop printer were present at Pulley Jajwaha Village Arahimajra, for patrolling. and checking, then by putting the light of the torch, saw one young clean shaved man was coming on foot on kacha road from the side of Vilalge Jodamajra towards village Araimajra, who upon seeing the police party in front turned towards the back and after throwing down the heavy transparent polythene held in his hand, started walking fast. Then I, ASI on the basis of suspicion, after calling out the suspicious person, with the help of fellow colleagues, apprehended him, I, ASI after giving information about myself said that I, ASI Narata Ram 2426/ Pat Chowki Mavi Kala (PS Sadar Samana) working as Investigation Officer. Then I, ASI enquired about the name and address of the young clean shaved man, who upon asking disclosed his name as Gurcharan Singh son of Hansa Singh resident of Village Maroru, PS Sadar Samana, District Patiala, whose appearance aged about 30 years, height 5 feet 11 inches, colour wheatish, beard and hair trimmed, slim and active body, burnt mark on the left hand, wearing t-shirt and lower. Then I, ASI, took Gurcharan Singh along to heavy transparent polythene, in which white colour intoxicant powder was clearly visible, enquired about the same to Gurcharan Singh, who said that I have purchased this intoxicant powder colour white from Baljinder Singh @ Balli son of Avtar Singh resident of Village Marori. PS Sadar Samana, District Patiala for money. Then I, ASI, picked the polythene bag and checked, from which white colour intoxicant powder was recovered. Upon checking the weight of recovered powder on the electronic scale, it came to be 25.48 alongwith grams the transparent polythene bag. Recovered 25.48 grams intoxicant powder colour white was put in the same transparent polythene bag and by putting it in one cloth bag, parcel was prepared. I, ASI, affixed my seal NR on parcel of intoxicant powder and sample seal was prepared separately, after use gave it to ASI Ranjit Singh 19/ Pt. then I, ASI, took the above sealed parcel of intoxicant powder alongwith sample seal were taken into



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*police custody as evidence through separate memo. Signatures of witnesses were got on the memo. Above Gurcharan singh has committed crime u/s 21/61/85 NDPS Act by keeping 25.48 grams intoxicant powder in his possession and Balwinder Singh @ Balli son of Avtar Singh resident of Village Marori, PS Sadar Samana, District Patiala, by selling intoxicant powder to above Gurcharan Singh has committed crime u/s 29, 61, 85 of NDPS Act. As such, ruqa has been printed through diary case for offence u/s 21, 29, 61, 85 of NDPS Act against Gurcharan Singh son of Hansa Singh, Baljinder Singh @ Balli son of Avtar Singh residents of Village Marori, PS Sadar Samana, District Patiala, through hands of PHG Sahib Singh 30217, has been sent to PS Sadar Saman. Case be registered and number be informed. Incharge Control Room Patiala be informed through W/M. I ASI, alongwith fellow colleagues are present at the spot for investigation. At Pulley Rajwaha Village Araimajra at 9:20 pm Sd/ Nrata Ram ASI Police Chowki Mawi Kalan PS Sadar Samana Proceedings dated 07.09.2024.”*

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. He has been nominated on the basis of disclosure statement of the co-accused and no recovery has been effected from the petitioner. He further submits that he is willing to join the investigation.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. Learned State counsel while placing reliance upon the status report dated 12.11.2024 submits that the petitioner is a habitual offender and following FIRs have been registered against the petitioner :-

*(i) FIR No. 172 of 2018 U/s 379B, 411 IPC, Police Station City Samana, District Patiala.*



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***Under NDPS Act:***

*(ii) FIR No. 124 dated 08.07.2019 U/s 22/61/85 of NDPS Act, Police Station Samana, District Patiala.*

*(iii) FIR No. 14 dated 13.01.2023 U/s 15/61/85 of NDPS Act, Police Station STF, District Patiala,*

Learned State counsel further submits that the accused Gurcharan Singh (from whom the recovery of 25.48 gm intoxicant powder has been affected) had purchased the above said intoxicant powder from the petitioner. The name of the petitioner was revealed by Gurcharan Singh at the time of his apprehension and arrest and even, the petitioner has been specifically named as an accused in the FIR. He further submits that the petitioner has committed a heinous offence and the petitioner along with Gurcharan Singh have indulged in the activities of enhancing drug menace in the society, the petitioner is not entitled to any leniency from this Court. His interrogation is required to bust the entire drug cartel being run by him.

5. Heard the rival submissions made by learned counsel for the parties.

6. The Hon'ble Supreme Court in the case of ***State of Haryana Versus Samarth Kumar, 2022 LiveLaw (SC) 622***, 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.*

*9. To grant anticipatory bail in a case of this nature is not really warranted. Therefore, we are of the view that the High Court fell into an error in granting anticipatory bail to the respondents.*

*10. In view of the above, the appeals are allowed. The impugned orders are set-aside. As a consequence, the Appellant-State is entitled to take steps, in accordance with law’.*

*[emphasis supplied]*

7. This Court in the case of **Gurpreet Singh Versus State of Punjab, CRM-M-44196-2022, decided on 23.09.2022** had dismissed the anticipatory bail petition of an accused who had been named in a disclosure statement of the arrested accused. An SLP No.9680/2022 was preferred against the said order and

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the said SLP was dismissed by the Hon'ble Supreme Court vide order dated 07.11.20227.

8. There are serious allegations leveled against the petitioner. The petitioner has been nominated on the basis of disclosure statement and there are two other cases under the NDPS Act registered against him. Accordingly, to unearth the true dimension of the alleged crime, this Court does not deem it appropriate to interfere in the matter so as to grant the concession of anticipatory bail to the petitioner at this stage.

9. The petition is dismissed.

10. Needless to mention that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

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

**17.12.2024**

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**(KIRTI SINGH)  
JUDGE**

*Whether speaking/reasoned? Yes/No*  
*Whether reportable? Yes/No*