

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

105 CRM-M-52530-2024
DATE OF DECISION: 22.10.2024

KULDEEP SINGH ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Prince Goyal, Advocate for the petitioner(s).

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 482 of the BNSS has been invoked seeking the concession, for the grant of anticipatory bail to the present petitioner in FIR No.0005 dated 05.01.2021, under Section(s) 21 and 29 of the NDPS Act, 1985 (added later on) registered at Police Station Vairoke, District Fazilka.

2. Prosecution story, set up in the present case as per the version in the FIR read as under :-

‘SHO PS Vairoke. Jai Hind. Today I SI along with SC Baljinder Singh No. 902/ FZK, C Karamvir singh No. 1301/FZK PHG Gurnam Singh 5222 on vehicle No. PB-05-N-6931 driven by CT Karamvir Singh for patrolling and checking of suspected person from Ladhuwala to Suhele wala, Jandwala, Vairoke etc. when the police party went on about ½ KM from Jandwala to village Kacha Kalewala, then on seeing a Motorcyclist coming speedily from the front side, SI on the basis of suspicion stop the vehicle and came down and with the help of police party gave



signal to stop him. The Motorcyclist perplexed on seeing the police party and tried to turn back then due to rain the Motorcycle slipped and fell down. Then SI with the police party apprehends the motorcyclist and asked his name and address. Who told his name Gurpreet Singh alias Gora s/o Satnam Singh s/o Arhjan Singh r/o Megha Panjgral PS Guruharsahai. Then SI in the presence of police party Motorcycle hero Honda HF-Deluxe black color without registration Number having tied black color polythene bag with his right side handle whose mouth was lying opened and Heroine was clearly visible. Gurpreet Singh alias Gora by keeping heroin in his possession has committed offence u/s 21/61/85 of NDPS Act. On which ruqa after writing is being sent through PHG Gurnam Singh 5222 to police station for registration of a case against Gurpreet Singh alias Gora. Case number be intimated after registration. Special report be issued. An I/O may kindly be send on spot for further investigation. I SI along with police party is present on the spot along with Gurpreet Singh alias Gora. Sd/ Iqbal Singh SI I/C PP Ladhuwala daed 5.1.2021 in the area of Village Jandwala at 7.45 PM. Today on receipt of the above said ruqa in the police station above said case under above said offence against above said accused registered and copy of Fir along with original ruqa is being send back with the messenger PHG to SI on the spot. But for further investigation already ASI Balkar Singh 1991/ FZR along with ASI Harkrishan Lal 356/FZK HC Malkiat Singh 379/ FZK C Gurpret Singh 1195/ FZK C Raj Kumar and PHG Kulwant singh and PHG Hakam Singh are sent on the spot. After issuing the special report those are being send through senior C Sandeep Singh to Illaqa Magistrate and higher police officers. PCR/FZK is intimated through e-Mail.'

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner



has been falsely implicated in this case and has been nominated in the instant FIR merely with addition of Section 29 of the NDPS Act, added with the fact that whatsoever recovery is alleged to be effected from co-accused Gurpreet Singh @ Gora and Gurbhej Singh. He submits that the petitioner was named in the disclosure statement made by co-accused namely Gurpreet Singh @ Gora asserting that they have received the contraband from the petitioner. However, counsel for the petitioner further submits that he has strong probability of earning acquittal as co-accused-Gurpreet Singh @ Gora stands acquitted by the Trial Court along with Gurbhej Singh vide judgment dated 17.02.2024 (Annexure P-2), co-accused Parvinder Pal Singh has been extended the benefit of interim pre-arrest bail by this Court vide order dated 09.10.2024 passed in CRM-M-50797-2024 and co-accused Pooja Rani has also been granted concession of anticipatory bail vide order 23.11.2023 passed in CRM-M-34169-2023.

On behalf of the State

Learned State Counsel appearing on advance notice on instructions from Investigating Officer vehemently opposes the prayer for grant of concession of anticipatory bail and has argued that acquittal has been granted to the co-accused persons merely on technical grounds.

4. **Analysis**

Be that as it may, after given a thoughtful consideration to the submissions as made, by the counsel for both the parties and keeping in view the facts that co-accused Gurpreet Singh @ Gora and Gurbhej Singh have been acquitted by the Court below, co-accused Parvinder



Pal Singh has been extended the benefit of interim pre-arrest bail by this Court and Pooja Rani has also been granted concession of pre-arrest bail. Further, the State Counsel has failed to show any incriminating material or concrete evidence asserting that one kg. contraband is yet to be recovered from the petitioner and also could not unjustify the acquittal order granted by the Trial Court in favour of the main accused Gurpreet Singh @ Gora and Gurbhej Singh, therefore chance of acquittal of the petitioner cannot be denied. Hence, this Court finds no reason to deny the petitioner the concession of anticipatory bail, wherein the petitioner has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency within the stipulated time period.

5. **Decision**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail subject to him joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

- (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;
- (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) a condition that the person shall not leave India without the previous permission of the Court;
- (iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stand cancelled.

The petition in the aforesaid terms stand allowed.

(SANDEEP MOUDGIL)
JUDGE

22.10.2024
anuradha

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