

**CRM-M-53434-2024**

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-53434-2024

Date of Decision : 18.12.2024

Rajveer Singh alias Rajvir Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGHPresent: Mr. S.S. Brar, Advocate
for the petitioner.

Mr. R.S. Thind, DAG Punjab

KIRTI SINGH, J.(Oral)

1. Apprehending arrest in FIR No.426 dated 24.09.2024, under Sections 21, 22 and 29 of the NDPS Act, 1985 registered at Police Station City Barnala, District Barnala, the petitioner has preferred this petition under Section 482 of BNSS, 2023 for grant of pre-arrest bail.

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

"Copy of rukka," Incharge PS City Barnala, I SI along with ASI Dalwinder Singh 630/BRN, HC Gursewak Singh 782/BR, CT Rohtash Kumar 466/BR, L/ct Manisha 1041/ NR. PHG Jaspal Singh 27081 upon government vehicle bearing registration number PB 13 BQ 1495 driven by PHG Rajesh Singh 27013 in connection with patrolling and detection of Crime Along with laptop. printer and investigating Kit were present near the Khanna Chowk Barnala, then time at about 2:45 PM, ISI told by one secret informer that Ajay Sharma, Alias Gora, son of the Tarlochan Pal resident near Shiv Matth Mandir



Sekha Phatak Barnala age about 24/25 years, Complexion white, hair and beard trimmed, Harpreet Singh Alias Pita son of Jagtar Singh, resident of backside municipal committee office, Baazigar Basti Barnala, age about 25/26 years complexion. dark. Hair-beard trimmed Amritpal Singh Singh Alias Chuch, son of Sunder Singh, resident near Peer Khanna, near railway station, Palethi Barnala, age about 24/25 years, complexion dark and hair and beard cut and Sukhdev Ram @ sukhu son of Ramesh Kumar resident near Dera Baba Gulab Dass, Sandhu Pathi Barnala age about 30/31 years complexion dark Hair and weird trimmed, heavy build used to sell drugs who used to sell heroin and intoxicating tablets. Today, also they are roaming near grain market for selling heroin and intoxicating tablets in one car marka Verna bearing registration number UP 16 BF 4696 colour black. If they will be searched now, then they can be apprehended with heavy quantity of heroin and intoxicant tablets. Information is true and reliable. So, Ajay Sharma, Alias Gora, son of the Tarlochan Pal resident near Shiv Matth Mandir Sekha Phatak Barnala, Harpreet Singh Alias Pita son of Jagtar Singh, resident of backside municipal committee office, Baazigar Basti Barnala, Amritpal Singh Singh Alias Chuch, son of Sunder Singh, resident near Peer Khanna, near railway station, Palethi Barnala and Sukhdev Ram @sukhu son of Ramesh Kumar resident near Dera Baba Gulab Dass, Sandhu Pathi Barnala have committed offence under section 21,22 of NDPS by keeping and selling Heroin and intoxicating tablets. Therefore the offence under Section 21,22 of the NDPS act is made out against Ajay Sharma Alias Gora, son of the Tarlochan Pal resident near Shiv Matth Mandir Sekha Phatak Barnala, Harpreet Singh Alias Pita son of Jagtar Singh, resident of backside municipal committee office, Baazigar Basti Barnala, Amritpal Singh Singh Alias Chuch, son of Sunder Singh, resident near Peer Khanna, near railway station, Palethi Barnala and Sukhdev Ram @ sukhu son of Ramesh Kumar resident near Dera Baba Gulab Dass, Sandhu Pathi Barnala. So Ruqa is being sent

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against So, Ajay Sharma, Alias Gora, son of the Tarlochan Pal resident near Shiv Matth Mandir Sekha Phatak Barnala, Harpreet Singh Alias Pita son of Jagtar Singh, resident of backside municipal committee office, Baazigar Basti Barnala, Amritpal Singh Singh Alias Chuch, son of Sunder Singh, resident near Peer Khanna, near railway station, Palethi Barnala and Sukhdev Ram @ sukhu son of Ramesh Kumar resident near Dera Baba Gulab Dass, Sandhu Pathi Barnala, by writing. through L/CT Manisha 1041/BR for the registration of FIR. After the registration of FIR, case number may be intimated. Control room Barnala may be intimated through wireless message. I SI along with other police officials going to search the accused. Near Gada Khanna Chowk, Barnala at 3:15 PM, SD manjit Singh SI police City Barnala 24.09. 2024.”

3. Learned counsel for the petitioner *inter alia* submits that allegedly, 50 grams Heroin, 50 tablets of Etizolam and Rs. 1 lac drug money were recovered from co-accused. He further submits that the petitioner has been nominated on the basis of disclosure statement of co-accused Ajay Sharma @ Gora and Sukhdev Ram @ Sukhu.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He submits that the petitioner is a habitual offender and there is another FIR registered against him i.e. FIR No. 71 dated 11.07.2024 under Sections 21(b), 29/61/85 of the NDPS Act at Police Station Kulgarhi, District Ferozepur. He further submits that the petitioner used to sell narcotic substance to people. He also sold this material to the above mentioned accused persons. Co-accused Ajay Sharma @ Gora and Sukhdev Ram @ Sukhu suffered disclosure statements against the petitioner who disclosed that they have purchased the said material from petitioner as well as from co-accused



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Harpreet Singh @ Peeta.

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***



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(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 the said SLP was dismissed by the Hon'ble Supreme Court vide order dated 07.11.2022.

8. There are serious allegations leveled against the petitioner. The petitioner is smuggler of intoxicant tablets and intoxicant powder i.e. heroin who used to sell the same to the people. The petitioner is committing serious offence, thus, 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.

18.12.2024

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**(KIRTI SINGH)
JUDGE**

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