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

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Date of Decision : 05.12.2024

Kamaldeep Singh Grewal

.....Petitioner

Versus

State of Haryana

.....Respondent

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

Mr. Gaurav Bansal, DAG Haryana

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

1. Apprehending arrest in FIR No.0406 dated 06.08.2024, under Section 18 of the NDPS Act, 1985 registered at Police Station Thanesar Sadar, District Kurukshetra, the petitioner has preferred this petition under Section 482 BNSS, 2023 for grant of pre-arrest bail.

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

*“Copy of the contents. To, SHO Police Station Sadar Thanesar Jai Hind, Today I ASI Sanjeev Kumar No.384/Kurukshetra, Praveen Kumar, Dinesh Kumar, SPO Sanjay Kumar along with laptop printer and kit left Narcotic Cell, Kurukshetra at 5:00 PM in Government vehicle No.HR 07 GV 7171 Mark Balero being driven by Vinod Kumar in search of crime. That I, ASI in uniform and other employees in civil courts were patrolling and At around, 5:30 PM, reached Parakit Resort, Marriage Palace Gate from Umri Chowk, Sector-02, Kurukshetra that one secret informer met me and gave secret*



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*information at 5:45 PM that one young boy namely Grupreet Singh son of Major Singh, R/o Kalheri, District Roopnagar, Punjab wearing Green T-Shirt and Sky blue jeans with Hawai Sleepers and is having a red colour bag is having very high quantity of opium and is roaming around Southern side of Devi Lal Park with an intention to sell the same and in case immediately raid is conducted then he can be captured with heavy quantity of opium. The secret informer was asked to leave and fellow employees were informed about the secret information and a separate notice under Section 42 of NDPS Act was prepared as information was considered to be true and trustworthy and notice was sent to Sh. Ashok Kumar, HPS, DSP Head Office, Thanesar, District Kurukshetra through SPO Sanjay Kumar. That offence u/s 18-61-85 of NDPS Act is found to have been committed and is sent to Police Station Sadar Thanesar for registration of case by hand Dinesh Kumar. Case be registered and number be informed and special report be sent to higher authorities. For further investigation another investigation Officer be sent on the spot. I, ASI leave for Southern gate of Devi Lal Park as per information given by Secret informer. Today Parakit Resort Marriage Palace, Kurukshetra. Sd/ Sanjeev Kumar ASI, Anti-Narcotic Cell, Kurukshetra. 06.08.2024 at 6:20 PM. Today at Police Station. Aforesaid information was received and FIR No. 406 dated 06.08.2024 u/s 18-61-85 of NDPS Act is lodged at Police Station Sadar Thanesar and copy of FIR is sent through E- mail to SP, Kurukshetra, DSP Kurukshetra and Illaqa Magistrate Kurukshetra and is sent at the spot for investigation and SI Rajpal is sent as second investigation officer. The record has been registered and is registered in presence of Sunil 1596.”*

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. He further submits that the petitioner has not been named in the FIR and he has only been nominated on the basis of disclosure statement of co-accused.



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4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. Learned State counsel has placed reliance upon the status report dated 18.11.2024 and submits that the petitioner used to sell opium in Malerkotla and for same he had ordered 2.5 Kgs of Opium from one Abhishek and even paid Rs. 15,000/- as advance for consideration of same and the consignment was being transported by co-accused Gurpreet Singh in his truck, who had received money for doing same. Two other FIRs are pending against the petitioner and one of the FIR is under the NDPS Act which establishes the fact that the petitioner is a habitual in dealing narcotic substance.

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*



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*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. A perusal of the aforementioned judgment would clearly show that though the recovery from the principal accused was of commercial quantity of contraband, no distinction whatsoever has been drawn by the Hon'ble Supreme Court with respect to the recovery from the principal accused being of commercial/non-commercial quantity being a determining factor for the grant of bail to the person named in the disclosure statement.

8. 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 07.11.2022.

9. There are serious allegations levelled against the petitioner. Recovery of commercial quantity 2 Kg 500 grams of Opium was made from the co-accused. The petitioner has been nominated on the basis of disclosure statement of co-accused and has two other cases registered against him, out of which one case is registered under NDPS Act. 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.

10. The petition is dismissed.

**(KIRTI SINGH)**  
**JUDGE**

**05.12.2024**

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