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

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CRM-M-1195-2025 (O&M)

Date of decision: 27.01.2025

Nitin**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Ran Vijay Singh, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking anticipatory bail in case bearing FIR No. 74 dated 05.03.2024, registered under Sections 20(b)(ii)(C), 27 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station City Sohana, District Gurugram.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 05.03.2024, when a police party headed by ASI Sandeep was on patrolling duty, it received a secret information to the effect that a truck bearing registration number HR-38-AC-7912 was coming loaded with *Ganja* and it could be apprehended on laying a barricading. Believing the information to be true, barricading was done at the informed place and the aforesaid truck was stopped. On inquiry, the driver disclosed his name as 'Tasleem', whereas the conductor disclosed his name as 'Mukeem'. On search of the vehicle, 549 kgs. of *Ganja* was recovered from the same. Both the

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persons were formally arrested at the spot. During the course of investigation, the aforesaid co-accused named Barkat Khan and Shamim, who were arrested. Call details record of the mobile phone of co-accused was procured, wherein it was found that there were 319 call exchanges between him and the present petitioner. On the basis of the same, the present petitioner has also been nominated in this case as an accused. Apprehending his arrest, the petitioner had filed an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Gurugram but the same had been dismissed, vide order dated 09.12.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He was neither found at the spot nor was named in the secret information. He has been nominated in this case only on the basis of disclosure statement of co-accused Barkat Khan, which cannot be considered to be admissible in evidence and call details record, wherein it has been found that he has exchanged several calls with co-accused Barkat Khan and except this, there is nothing on record to connect the petitioner with the subject crime. The petitioner is not involved in any other criminal case. No recovery is to be effected from him. Main accused of the case have already been arrested. The petitioner is ready to join the investigation. No useful purpose would be served by detaining him into custody. It is, therefore, urged that the petition deserves to be allowed.

4. Status report has already been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Haryana has opposed the prayer made by the petitioner by submitting that during

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investigation, it has been found that the petitioner had ordered for purchase of 549 kgs. of Ganja from co-accused Barkat Khan and had paid him an amount of Rs. 1 Lakh. The custodial interrogation of the petitioner is required to know as to whom he had contacted from his phone for selling Ganja. It is, thus, argued that the petition is liable to be dismissed.

5. I have learned counsel for the parties at considerable length and have also perused the material placed on record.

6. The petitioner has been nominated in this case on the basis of the call details record of co-accused Barkat Khan, wherein it was found that they had exchanged several calls and disclosure statement alleged to be suffered by him. The allegations against the petitioner are that for purchasing 549 kgs. of Ganja, he had paid an amount of Rs. 1 Lakh to co-accused Barkat Khan as he himself was selling Ganja to different persons by contacting them on phone. It is not disputed that co-accused Barkat Khan himself was named by co-accused Tasleem and Mukeem, who were apprehended by the police party on 05.03.2024 at the spot and recovery of 549 kgs. of Ganja was effected from their vehicle bearing registration number HR-38-AC-7912. The petitioner is not involved in any other case. He has clean criminal antecedents. Co-accused Shamim, whose case was on similar footing, has been extended benefit of bail. It is a question of debate as to whether the petitioner was involved in sale/purchase of contraband. In view thereof, I am of the considered opinion that the custodial interrogation of the petitioner is not required. Accordingly, the present petition is allowed. The petitioner is granted concession of anticipatory bail, subject to the compliance of conditions envisaged under

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Section 482(2) of BNSS. He is directed to appear before the Investigating/Arresting Officer to join investigation within a period of ten days from today or as and when subsequently required thereafter. In the event of his arrest, the Investigating/Arresting Officer shall release the petitioner on bail subject to his/her satisfaction.

7. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

27.01.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No