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

**CRM-M No.1992 of 2025
Date of Decision: 16.01.2025**

Gurmit Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. B. S. Bhalla, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present petition has been filed praying for the grant of anticipatory bail to the petitioner in case bearing FIR No.73, dated 20.12.2024, under Section 15 of Narcotics Drugs and Psychotropic Substances Act, 1985, registered at Police Station Fatehgarh Panjtoor, District Moga.

2. Succinctly the facts of the case are that on 20.12.2024, the police party received a secret information to the effect that Gurmit Singh i.e. the petitioner, son of Gurmej Singh was habitual of selling the poppy husk and he was standing near Dam Bhaini Mandi by loading poppy husk on his Activa Scooty bearing No.PB-05AS-0655 in order to sell the same to his customers. It has been alleged that in case of raid, he could be



apprehended along with the contraband. Finding the information reliable, raid was conducted by the police at the disclosed place where the said scooty was parked and two plastic bags were loaded on the seat of Aactiva and one plastic bag was kept in front of Aactiva and one person was also standing there, who on seeing the police party, got perplexed and managed to escape from the spot after taking advantage of darkness. ASI Jarnail Singh identified the person, who fled away as Gurmit Singh son of Gurmej Singh, as earlier he was known to him. On search of the 03 bags, 20 Kg Poppy Husk was found in each of two bags and 14 Kg of Poppy Husk was found in third bag and the total weight of the contraband comes to 54 Kg. Thus the FIR was registered and the investigation commenced. Apprehending his arrest, the petitioner approached the Court of learned Judge, Special Court, Moga praying for the grant of anticipatory bail. However after hearing both the sides, finding no merit in the same, the learned Judge, Special Court, Moga dismissed the petition filed by the petitioner vide his order dated 09.01.2025. Hence being aggrieved the petitioner is before this Court by way of filing the present petition praying for the grant of anticipatory bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. He has submitted that the FIR has been registered on the basis of secret information and no recovery has been effected from the petitioner. He has submitted that the petitioner has no concern with the



alleged recovery of 54 kg of Poppy Husk which has been effected in this case. He has submitted that the petitioner is not involved in any other case except FIR No.203 dated 31.12.2015, under Section 15 of NDPS Act, registered at Police Station Dharamkot, District Moga in which he was acquitted on 24.08.2018. He has submitted that though the FIR has been registered on the basis of secret information, however the petitioner was not present at the time of recovery and thus his false implication is writ large. He has submitted that in the facts and circumstances, the petitioner deserves to be granted anticipatory bail.

4. The Court has heard learned counsel for the petitioner and perused the record with his able assistance.

5. It is apparent that the FIR in the present case was registered on the basis of secret information specifically qua the petitioner. The alleged recovery effected from the petitioner falls under the commercial quantity. Even if the petitioner had escaped from the spot, the same would not entitle him for granting anticipatory bail. The case is at the threshold.

6. For the consideration of anticipatory bail, the statutory parameters are given under Section 482 (1) & (2) BNSS which reads as under:-

“Direction for grant of bail to person apprehending arrest:

- 1. When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction*



under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

2. *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."*

7. As per the law settled by the Hon'ble Supreme Court, in ***Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632***, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would always prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

"31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of



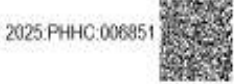
anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail."



8. The Hon'ble Supreme Court in *State Vs. Anil Sharma*, (1997) 7SCC 187, held as under:-

“6. *We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.*”

9. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been prima facie found. Needless to say, the investigation is at threshold and in the facts and circumstances, custodial interrogation of the petitioner would be essential and granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.



10. In view of the overall facts and circumstances of the case, the petitioner do not qualify for the grant of anticipatory bail and the same is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

16.01.2025

(RAJESH BHARDWAJ)
JUDGE

<i>rittu</i>	Whether speaking/reasoned :	Yes/No
	Whether reportable :	Yes/No