



102

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

**CRM-M No.3951 of 2025
Date of Decision: 24.01.2025**

Harpal Singh**..... Petitioner**

Versus

State of Haryana**..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Satbir Singh Gill, Advocate
for the petitioner (through video conferencing).

RAJESH BHARDWAJ, J.

1. Present petition has been filed praying for the grant of anticipatory bail to the petitioner in case bearing FIR No.318, dated 29.11.2024, under Sections 15(b)/61/85 of NDPS Act, 1985, registered at Police Station Ding, Sirsa, District Sirsa (Haryana). Further prayer has been made for staying the arrest of the petitioner during the pendency of the present petition.

2. As per the facts of the case, on 29.11.2024, the police party while on patrolling noticed an Alto Car of silver colour parked on the road side. On suspicion, the car was searched and 04 plastic bags of white colour were found lying on the rear seat of the car, however no clue was found regarding the driver of the car. The search of bags was



conducted in the presence of Gazetted officer and on the search of all the bags, Poppy Husk was found in the same. On weighing the total poppy husk recovered from all the bags came to be 79 Kg 885 Grams. The FIR was registered and the investigation commenced. The samples were taken from all the bags and sent to the FSL. During the investigation, complicity of the petitioner was established and thus, he was arrayed as an accused in the present case. Apprehending his arrest, the petitioner has approached the Court of learned Additional District & Sessions Judge (FTSC/NDPS), Sirsa praying for the grant of anticipatory bail. However after hearing both the sides, the learned Additional District & Sessions Judge (FTSC/NDPS), Sirsa dismissed the petition filed by the petitioner vide order dated 18.01.2025. Hence the petitioner is before this Court by way of filing the present petition praying for the grant of anticipatory bail.

3. It has been contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. He has submitted that the alleged recovery of Poppy Husk was made from the car parked at the road side. He has submitted that neither the petitioner is named in the FIR nor any recovery has been effected from him. He has submitted that the petitioner has been illegally shown to be the owner of car, however he has no concern with the car nor any recovery of alleged poppy husk effected from the same. He has submitted that the petitioner has been arrayed as an accused in the present case on the basis of disclosure statement made by co-accused, which is



not an admissible evidence. He has submitted that no prima facie case as alleged is made out against the petitioner and thus he deserves to be granted anticipatory bail.

4. Notice of motion.

5. On asking of the Court, Mr. Sumit Jain, Addl. A.G., Haryana appears and accepts notice on behalf of the respondent-State. He, on the other hand has vehemently opposed the submissions made by learned counsel for the petitioner. It has been submitted by learned State counsel that during the investigation, the petitioner was found to be the owner of the car. He has submitted that the recovery effected from the car is commercial in nature and hence, the provisions of Section 37 of NDPS Act are attracted. He has thus submitted that granting anticipatory bail to the petitioner at this stage would adversely affect the investigation and thus, the present petition deserves to be dismissed.

6. The Court has heard learned counsel for the parties and perused the record with their able assistance.

7. It is deciphered that the recovery of 79 Kg 885 Grams of Poppy Husk has been effected by the police from the car found parked at the road side. 04 bags were found lying on the rear seat of the car. On search, the same were found to be containing Poppy Husk. During the investigation, it was found that the car used in the offence was owned by Bijender Singh, who sold it to one Rinku Kumar. Rinku Kumar orally sold the car to Lovepreet Singh, who further sold it to Gurpreet Singh. Thereafter Gurpreet Singh sold it to Surender Singh, who further sold it



to the petitioner. Surender Singh had produced an affidavit before the Investigating Agencies from which it was found that the petitioner had purchased this car from Surender Singh. The case is under investigation and during the investigation, as submitted before this Court, so far it has been found that though the petitioner is not the registered owner of the car, however he has orally purchased it from Surender Singh and thus, the car is in the possession of the petitioner from which the alleged contraband falling under the commercial quantity has been recovered. Needless to say, the investigation is at threshold and granting bail to the petitioner would prejudice the ongoing investigation.

8. 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."*

9. 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."

10. 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.”

11. 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.

12. 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.

24.01.2025

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

(RAJESH BHARDWAJ)
JUDGE