

2025:PHHC:021948



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

281

CRM-M-6849-2025 (O&M)
Date of decision: 15.02.2025

Kewal Singh @ Keli**...Petitioner**

Versus

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

Present:- Mr. S. K. Sirsa, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*), is for grant of anticipatory bail to the petitioner in FIR No. 18 dated 24.01.2025, registered under Section 21(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Odhan, Dabwali.

2. Brief facts of the case relevant for the disposal of the present petition are that on 24.01.2025, co-accused Iqbal Singh @ Pappu was apprehended by the police party and recovery of 9.8 grams of heroin was effected from him. He was formally arrested at the spot. During the course of investigation, he disclosed that he had purchased 12 grams of heroin from the present petitioner, out of which, 9.8 grams of heroin was recovered in

2025:PHHC:021948



this case. On the basis of the same, the petitioner has been nominated as an accused in this case. Apprehending his arrest, he had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Sirsa but the same had been dismissed, vide order dated 01.02.2025.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. He has been nominated in this case on the basis of the disclosure statement suffered by the above named co-accused, which is not admissible in evidence. Even otherwise, the quantity of the contraband allegedly recovered from the co-accused is small and does not fall within the commercial quantity. The petitioner is ready to join the investigation. His custodial interrogation is not required. No recovery is to be effected from him. No useful purpose would be served by detaining him into custody. It is, thus, urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of anticipatory bail. To fortify his argument, learned counsel for the petitioner has relied upon the authority of Hon'ble Supreme Court rendered in *Tofan Singh vs. State of Tamil Nadu : (2021) 4 SCC 1*.

4. Status report has already been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Haryana has argued that though the petitioner has been nominated in this case on the basis of the disclosure statement suffered by above named co-accused but during the course of investigation, his complicity has been duly established. The allegations against the petitioner are that he used to supply contraband to the co-accused. The petitioner is a man of criminal antecedents as he is involved in two more cases under the NDPS Act. Apart from this, he is

2025:PHHC:021948



involved in 07 more cases under the provisions of Excise Act. His custodial interrogation is required for conducting proper investigation in the matter and to know the source of the contraband and also for effecting further recovery of the contraband, if any. Hence, it is urged that the petition is liable to be dismissed.

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

6. As per the allegations, the petitioner has been nominated in this case on the basis of the disclosure suffered by co-accused Iqbal Singh @ Pappu, who was apprehended by the police party on 24.01.2025 and from whom, recovery of 9.8 grams of heroin was effected. The allegations against the petitioner are that he had sold total 12 grams of heroin for a sum of Rs. 24,000/-. The petitioner is shown to be involved in two more cases under the NDPS Act, apart from 07 other cases of Excise Act, which shows that he is a habitual offender. For conducting proper investigation in the matter and to know the source of the contraband, custodial interrogation of the petitioner is required. A habitual offender does not deserve to be granted concession of anticipatory bail. No sparing or extraordinary circumstance has been made out in favour of the petitioner entitled him for the grant of anticipatory bail. So far as the ratio of law as laid down by Hon'ble Supreme Court in ***Tofan Singh***'s case (supra) is concerned, the same stands clarified by Hon'ble Supreme Court in ***State of Haryana vs. Samarth Kumar : 2022(3) RCR (Criminal) 991***, wherein it has been held that the advantage of decision of ***Tofan Singh***'s case (supra) can be taken in regular bail application or at the time of final hearing after conclusion of trial and not

2025:PHHC:021948



while seeking concession of pre-arrest bail. The well settled proposition of law is that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses. The powers under Section 482 of BNSS are to be exercised in extraordinary and sparing circumstances. More so, custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 482 of BNSS. Many useful information can be disinterred during custodial interrogation. Keeping in view the discussion as made above, I am of the considered opinion that no extraordinary or sparing circumstance entitling the petitioner to seek concession of pre-arrest bail has been made out rather his custodial interrogation is required for thorough investigation in the matter by the police. Accordingly, finding no merit, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

15.02.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

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