



CRM-M-10403-2025

-1-

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

CRM-M-10403-2025

Decided on: 24.02.2025

Rajwinder Singh @ Karan

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Prateek Pandit, Advocate, for the petitioner.
Mr. Tarun Aggarwal, Sr.DAG, Punjab.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for grant of anticipatory bail to the petitioner in a case FIR No. 171 dated 17.11.2024, registered under Sections 15, 29 of NDPS Act, at Police Station City Shahkot, District Jalandhar.

2. Succinctly facts of the case are that on 17.11.2024, the Police received a secret information to the effect that Sonu son of Bohar Singh and Karan (petitioner) son of Permatma Singh are involved in smuggling of poppy husk and they purchase the same at low price from other States and sell at high price in different cities. It was informed that they were coming in truck bearing registration No.HP-12-8481 with driver Harpreet Singh @ Happy and cleaner Barinder Singh @ Raju and in case of barricading on highway of Moga to Jalandhar, they could be caught with poppy husk with the truck. On receiving the information, ruqa was sent and raiding team was constituted. On laying the barricading, the truck as disclosed was stopped. Driver of the truck disclosed his name as Harpreet Singh @ Happy, whereas, the other person disclosed his name as Barinder Singh @ Raju. On



conducting search of the truck, 105 Kgs of poppy husk was recovered. They failed to produce any licence regarding the possession of the same. Hence, they were arrested on the spot. The FIR was registered and the investigation commenced. Disclosure statements of the accused were recorded and complicity of the petitioner was *prima facie* found in the case. Hence, apprehending arrest, the petitioner approached the Court of learned Judge, Special Court, Jalandhar, for the grant of anticipatory bail. Learned Court after hearing both the sides, finding no merit in the petition filed by the petitioner, dismissed the same vide order dated 14.01.2025. Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. He submits that neither the petitioner was arrested on the spot nor any recovery was effected from him. He submits that the allegation qua whatsapp call by the petitioner, is not admissible evidence, as the same are in the absence of certificate under Section 65-B of the IT Act. It is submitted that there being no *prima facie* case having been made out against the petitioner, he deserves to be granted anticipatory bail.

4. Learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that name of the petitioner was duly mentioned in the secret information and lateron during the investigation as well his complicity was found in the present case. He submits that recovery effected from the co-accused is commercial in nature and thus, provisions of Section 37 of NDPS Act, are attracted. He submits



that the investigation is at the initial stage and thus, no case for grant of anticipatory bail to the petitioner is made out.

5. After hearing learned counsel for the parties and perusing the record, it is deciphered that FIR was registered on the basis of the secret information. Name of the petitioner was also duly mentioned in the secret information. The truck as disclosed in the secret information was stopped at the barricade and on conducting search 105 of poppy husk, which is commercial in quantity was recovered. Needless to say that provisions of Section 37 of the NDPS Act are attracted. The investigation is at threshold. The contentions raised by counsel for petitioner regarding involvement of the petitioner on the basis of disclosure statement of the co-accused cannot be appreciated at this stage.

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

482“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."

8. Hon'ble Supreme Court in **State represented by CBI Vs. Anil Sharma**, (1997) 7 SCC 187 has 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](#) if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he 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 task of disintering offences would not conduct themselves as offenders."

9. Hon'ble Apex Court in plethora of judicial precedents including **Gurbaksh Singh Sibbia Vs. State of Punjab**, AIR 1980 SC 1632, has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of



offence, chances of accused tampering with the evidence and probabilities of his fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which should be exercised in the extraordinary circumstances.

10. The petitioner has approached this Court praying for grant of anticipatory bail, however, Hon'ble Supreme Court in **The State of Haryana vs. Samarth Kumar, 2022 Livelaw (SC) 622** has held that in the cases like the present one, the accused may take advantage of facts like no recovery was effected from him and that he was implicated on the basis of disclosure statement made by the main accused, at the time of arguing regular bail application or at the time of final hearing after conclusion of trial.

11. Hon'ble Supreme Court in **State by the Inspector of Police vs. B. Ramu, 2024(1) Law Herald (SC)** has held as under:-

11. 'In case of recovery of such a huge quantity of narcotic substance, the Courts should be slow in granting even regular bail to the accused what to talk of anticipatory bail more so when the accused is alleged to be having criminal antecedents'.

12. 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* established. The investigation is at its threshold. Thus, granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

13. In view of the facts and circumstances of the present case, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition

being devoid of any merit is hereby dismissed.

14. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

24.02.2025			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No