



CRM-M-17285-2025

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CRM-M-17285-2025

Date of decision: 28th March, 2025

Harpreet @ Ashu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sandeep Arora, Advocate for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of anticipatory bail in case bearing FIR No. 34 dated 14.02.2025 registered under Sections 21 and 29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS') at Police Station Rama Mandi, District Police Commissionerate Jalandhar.

2. As per the allegations, on 14.02.2025, police party headed by ASI Avtar Singh apprehended accused Raj Pal @ Palli and from his possession, 52 grams of *heroin*, 20 empty pouches and one electronic weighing scale, were recovered. He was arrested. During investigation, he suffered disclosure statement thereby nominating the petitioner, as supplier of the contraband. Apprehending his arrest, present petitioner moved an application for grant of pre-arrest bail before the learned Special Court,



Jalandhar, which was dismissed vide order dated 10.03.2025.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of disclosure statement of the co-accused which cannot be considered to be admissible in the eyes of law. No recovery is to be effected from him. He has nothing to do with the recovery of contraband effected from the co-accused. He is ready to join the investigation. His custodial interrogation is not required. Therefore, it is urged that the petition deserves to be allowed.

4. Notice of motion.

5. Ms. Ruchika Sabherwal, Sr. DAG, Punjab, has advance notice of the petition and is ready to argue the matter. It is submitted by her that there are serious allegations against the petitioner, who is supplier of the contraband recovered from the co-accused Rajpal. He is a habitual offender being involved in one more case under the provisions of NDPS Act. His custodial interrogation is required for conducting thorough investigation in the matter. Rigors of Section 37 of NDPS Act are attracted in this case. No extra ordinary or sparing circumstance has even otherwise been made out for the purpose of extending benefit of bail to the petitioner. There are chances of his absconding or committing similar offence, if extended benefit of bail. Therefore, it is urged that the petition does not deserve to be allowed.

6. Rival contentions of both sides have been considered.

7. The petitioner has been nominated in this case on the basis of the disclosure made by co-accused Raj Pal @ Palli, from whose custody, recovery of 52 grams of *heroin* was effected. For conducting thorough investigation in the matter, the custodial interrogation of the petitioner is



must. 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 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 438 of Cr.P.C. 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 438 of Cr.P.C. Many useful information can be disinterred during custodial interrogation. It has also to be seen that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. 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



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construed as an expression of opinion on the merits of the case.

8. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

**[MANISHA BATRA]
JUDGE**

28th March, 2025

Parveen Sharma

1. <i>Whether speaking/ reasoned</i>	:	<i>Yes / No</i>
2. <i>Whether reportable</i>	:	<i>Yes / No</i>