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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18184-2025
DECIDED ON: 03.04.2025

SUKHDEV

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Renu Arora, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG Punjab

SANDEEP MOUDGIL, J (ORAL)

1. **Prayer**

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.0113, dated 30.07.2024, under Sections 21, 21(c), 25 and 29 of NDPS Act, registered at Police Station Special Task Force, STF Wing, Jalandhar Range (Annexure P-1).

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“COPY OF RUQA STATEMENT OF ASI AMANDEEP SINGH NUMBER 7-IRB/23 STF JALANDHAR RANGE STATED THAT I AM POSTED ATSTF JALANDHAR RANGE, JALANDHAR. I ASI along with S/CT Ravi Kumar No. 80/653, S/CT Vikram Singh No. 150/ JAL-C, S/CTDHANJIT SINGH NO. 1838/JAL-R S/CT Akashdeep Singh no.1190/JAL-R were on government vehicle bearing registration number PB-65- AD-8743 wherein printer was fitted alongwith laptop etc and were present at 66 ft road Curo Mall

Jalandhar in connection with checking of drug smugglers and patrolling. Secret informer came to me and informed that Sahil s/o Sukhdev and his companion Rajbir Singh @Raja both residents of Pholriwal Jalandhar indulge in sale of Heroin. Today also, they in car make Swift Dezire bearing registration number PB-08-ER-1292 colour white, are present at 66 ft road opposite to Curo Mall for supplying Heroin. If raid be conducted, they alongwith Heroin in heavy quantity, can be apprehended. I ASI made compliance of section 42 NDPS Act by preparing report and sending the same through S/CT Akashdeep Singh no.1190/Jal-R. I ASI made aware other officials regarding secret information. Raid was conducted at place informed by secret informer. At about 11.40 AM, two young persons in car make Swift Dezire bearing registration number PB-08-ER-1292 colour white, were seen present at 66 ft road opposite to Curo Mall, as informed by secret informer. I ASI parked my vehicle in front of their vehicle and asked their whereabouts after apprehending them. On asking, driver of car disclosed his identity as Sahil s/o Sukhdev r/o Pholriwal Niwa Passa P.S Jamsher Jalandhar and person sitting on accompanying seat, disclosed his identity as Rajbir Singh @Raja s/o Harbhajan Singh r/o Pholriwal Niwa Passa P.S Jamsher, Jalandhar. On suspecting them to be in possession of intoxicating substance, I ASI informed to Head Munshi STAF SI Kuldeep Ram from my mob no.98552-80564 on his mobile no.98772-69717 for sending Investigating officer at the spot. Now you have come at the spot and accused persons alongwith car has been handed over to you. Further proceeding be carried out. Sd/- Amandeep Singh ASI, ASI Amandeep Singh no.7/23 Special Task Force Jalandhar Range, Jalandhar dt.30.07.2024 attested by Parveen Singh SI Special Task Force Jalandhar Range, Jalandhar. Dt.30.7.2024 ”

3. **Contention On behalf of the petitioner**

Learned counsel for the petitioner contends that the petitioner was not named in the FIR and neither he was present at the spot nor any recovery was effected from his person. He submits that the petitioner's name was drawn just a day i.e. 19.01.2025 prior to the presentation of the challan alleging him to be the owner of the vehicle from which contraband was stated to have been recovered.

It is argued that the fact regarding the ownership of the vehicle was in the knowledge of the police officials on the date of registration of FIR and was confirmed from the statement of RTA clerk recorded on 09.08.2024

inasmuch as the police have implicated the petitioner just to give undue favour to the main accused Rajbir Singh, who borrowed the vehicle of the petitioner, on the pretext of taking his mother to the hospital. It is averred that the petitioner is only a vegetable vendor and the son of the petitioner used to work as helper in the field of the main accused Rajbir Singh.

4. Stand of the respondent

Notice of motion. Mr. Jaspal Singh Guru, AAG Punjab accepts notice and submits that a huge quantity of contraband was recovered from the accused persons and there is every likelihood that the petitioner may flee the process of law. He then submits that as per the statement suffered from ASI Kuldeep Singh, who deposed that other than the present petitioner, there are two other accused Rajbir and Sahil from whom 353 grams of heroin was recovered whereas the name of the petitioner was nominated under Section 25 of the NDPS Act being owner of the car in which the accused persons were apprehended.

Heard counsel for the parties at length.

5. Analysis

It is trite that convicting or implicating a person under the NDPS Act merely because he is registered owner of the vehicle is legally unsustainable unless the prosecution proves that the vehicle was used with the owner's knowledge and consent and without such proof, the burden of proof cannot be shifted to the owner to prove innocence, notwithstanding that, granting anticipatory bail in NDPS cases is considered a "very serious" and "unheard of" inasmuch as the Supreme Court has expressed reluctance to grant anticipatory bail in NDPS matters, especially involving commercial quantities of drugs, due to the stringent provisions of Section 37 of the NDPS Act which impose restrictions on bail.

The Apex Court in *State of Kerala vs. Rajesh 2020 (1) RCR (CrL) 818* has held that in the matter of grant of bail in cases under the NDPS Act, liberal approach is uncalled for.

While addressing the objectives of the NDPS Act, the Supreme Court in the case of *Durand Didier v Chief Secretary, Union Territory Of Goa (1990) 1 SCC 95* emphasized that the rampant issue of clandestine smuggling and illegal trafficking of drugs and substances has led to widespread drug addiction, particularly among adolescents and youth. This has had a harmful and devastating impact on society. With grave concern, it was noted that the organized activities of criminal groups and the illegal importation of narcotic drugs and psychotropic substances into the country have caused a significant increase in drug addiction, especially among young people and students, affecting both genders. The menace has grown to alarming proportions in recent years. Consequently, to effectively combat and eliminate this growing threat, which is causing severe and harmful effects on society as a whole, Parliament, in its wisdom, enacted the NDPS Act of 1985, introducing provisions that mandate minimum imprisonment and fines for such offences.

In the facts of this case, though mere ownership of the vehicle does not automatically implicate the owner if the contraband was found in possession of a third party occupant and there is no evidence of the owner's involvement in such cases, however, where anticipatory bail is sought the custodial interrogation is certainly necessary even though the accused may have joined investigation at an earlier stage. At best, an accused who had been named in the disclosure statement of a co-accused was not entitled to the grant of anticipatory bail but could be granted regular bail. It is a matter of trial to ascertain the culpability of the petitioner and any such observation may

seriously affect the merits of the case moreso when two of the co-accused persons have been facing trial and against whom challan has already been presented wherein the name of the petitioner has also figured.

Thus, in view of the above discussion, this Court does not find it a fit case to grant the concession of anticipatory bail to the petitioner.

Dismissed.

(SANDEEP MOUDGIL)
JUDGE

03.04.2025

v.vishal

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