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

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CRM-M-18382-2025 (O&M)
Date of decision: 13.05.2025

Rakesh Kumar @ Kaku

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ashok Giri, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of anticipatory bail to the petitioner in FIR No. 15 dated 19.01.2025, registered under Sections 21, 27 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Civil Lines, Patiala.

2. Brief facts of the case relevant for the disposal of the present petition are that on 19.01.2025, co-accused Onkar Singh, while coming in a car bearing registration number HR-41J-1908, was apprehended by a police party headed by ASI Buta Singh and recovery of 3.5 kgs. of smack (heroin) along drug money of Rs. 6,50,000/- was effected from him. Upon interrogation, he disclosed that he along with the present petitioner used to prepare smack and sell it further. He also disclosed that the recovered drug money belonged to him as well as the present petitioner. On the basis of the same, the petitioner was nominated as an accused in this case. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned

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Additional Sessions Judge, Patiala but the same had been dismissed, vide order dated 25.03.2025.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The petitioner 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 against him. There is nothing on record to connect the petitioner with the subject offence, except the said disclosure statement of the co-accused. The petitioner is ready to join the investigation. No useful purpose would be served by detaining him in custody. Therefore, it is urged that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Punjab has argued that the petitioner is not entitled to get benefit of anticipatory bail as there are serious allegations against him. He was actively involved with the co-accused in sale of the contraband. He has been convicted in a case registered against him under the NDPS Act. His custodial interrogation is must for proper investigation in the matter as well as for effecting further recovery of contraband, if any. It is, thus, argued 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. The petitioner has been nominated in this case on the basis of the disclosure made by co-accused Onkar Singh, from whose custody, recovery of 3.5 kgs. of smack and drug money of Rs.6,50,000/- was effected. The allegations against the petitioner are that he was actively involved with the co-accused in preparing the contraband and further selling it to other at the rate of

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Rs. 4,000/- per 10 grams. The recovered drug money is also alleged to be belonging to the petitioner, apart from said co-accused. The allegations against the petitioner are quite serious in nature. He is shown to be convicted in a similar case. His custodial interrogation is must for thorough and proper investigation in the matter. Even otherwise, no extraordinary or exceptional circumstance has been made out for grant of anticipatory bail in favour of the petitioner. 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. 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.

13.05.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No