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

CRM-M No.18810 of 2025

Date of Decision: 04.04.2025

Kamal @ Kamaljeet Kaur**..... Petitioner****Versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Kanwaljeet Singh Brar, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present petition has been filed praying for the grant of anticipatory bail to the petitioner in case bearing FIR No.52, dated 03.05.2023, under Sections 22, 61, 85 of NDPS Act (Section 29 of NDPS Act and Section 201 of IPC added later on), registered at Police Station Sadar Jalalabad, District Fazilka (Annexure P-1). Further prayer has been made for staying the arrest of the petitioner during the pendency of the present petition.

2. Succinctly the facts of the case are that on 03.05.2023, the police party was on patrolling. When the police party going from village Sohna Sandar via canal to Ladhu Wala Hithar, they saw a motorcycle coming, which was being driven by a Hindu gentleman. On seeing the police party, he got perplexed and tried to reverse the motorcycle,



however he slipped on the kacha passage and fell down. One transparent polythene bag being carried by him also fell down. The police party apprehend that person, who on asking, disclosed his name as Paramjeet Singh @ Pamma. He was suspected to be carrying some intoxicant in the polythene bag which had fallen. Thus the search of polythene bag was conducted and on conducting the search, 720 intoxicant tablets were recovered. He failed to produce any licence regarding the conscious possession of the same and thus, FIR was registered and he was arrested on the spot. On registration of the FIR, the investigation commenced. During the investigation, GD No.42, dated 16.05.2023 was recorded. The accused, Pardeep Kumar @ Pappi, who was lodged in the police station on police remand, was interrogated and he suffered a statement that he purchased the intoxicant tablets in heavy quantity from Kamal @ Kamaljeet Kaur, i.e. the petitioner. He disclosed that Kamal @ Kamaljeet Kaur is indulged in selling the intoxicant tablets in her car bearing No.HR-9233 and she was the main person. Thus, the petitioner was also arrayed as an accused in the present case vide GD No.42, dated 16.05.2023. Apprehending her arrest, the petitioner approached the Court of learned Judge, Special Court, Fazilka praying for the grant of anticipatory bail. However after hearing both the sides, the learned Judge, Special Court, Fazilka dismissed the petition filed by the petitioner vide his order dated 13.03.2025. Hence being aggrieved, the petitioner is before this Court by way of filing the present petition praying for the grant of anticipatory bail.



3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. He has submitted that neither the petitioner is named in the FIR nor any recovery has been made from her. He has submitted that the petitioner has been arrayed as an accused in the present case on the basis of disclosure statement made by co-accused, which has no evidentiary value. He has submitted that GD No.42, dated 16.05.2023 has been registered after a gap of 13 days and no reason has been assigned for the same by the Investigating Agencies. He has submitted that the alleged recovery has been effected from Jalalabad whereas the petitioner is resident of Ganganagar, Rajasthan, which would show that the petitioner has been falsely roped in the present case. He has thus submitted that there being no prima facie case having been made out against the petitioner, she deserves to be granted anticipatory bail.

4. Notice of motion.

5. On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent-State. He, on the other hand has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that during the investigation, complicity of the petitioner has been duly established. He has submitted that though from the co-accused, namely, Paramjit Singh @ Pamma, 720 intoxicant tablets were recovered, however he submits that on the disclosure statement of co-accused, Pardeep Kumar @ Pappi and Satpal Singh were nominated in the present case and on their arrest,



the police party got the recovery of Rs.1,12,000/- intoxicating tablets, out of which, 1 lakh intoxicating tablets were of Tramadol Hydrochloride and 12000 tablets were of Alprazolam. He has submitted that involvement of the petitioner has been found during the investigation and on the disclosure statement of co-accused, namely, Pardeep Kumar @ pappi vide GD No.42, dated 16.05.2023. He has submitted that the petitioner is involved in one more case under the NDPS Act. He has thus submitted that the petitioner is involved in a case where heavy commercial quantity has been recovered and the investigation being at threshold, no case for the grant of anticipatory bail to the petitioner is made out and thus, the present petition being devoid of merit deserves to be dismissed.

6. Heard.

7. On hearing learned counsel for the parties and perusing the record, it is deciphered that 720 intoxicating tablets were recovered from co-accused, Paramjit Singh @ Pamma. During the investigation, complicity of other accused, Pardeep Kumar @ Pappi and Satpal Singh was found and it is on their disclosure, the involvement of the present petitioner was established. The Investigating Agencies thereafter made further recoveries of 1 lakh tablets of Tramadol Hydrochloride and 12000 tablets of Alprazolam. The petitioner before this Court is not only involved in the present case but is involved in one more case bearing FIR No.115, dated 28.08.2023, under Section 22-C of NDPS Act, registered at Police Station Cantt. Bathinda, District Bathinda. As submitted before this Court, the investigation is at threshold. The argument raised by



learned counsel for the petitioner that the petitioner has been involved in the present case on the basis of disclosure statement, where as per the law settled, could be appreciated at a later stage. However at the time of consideration, the same cannot be considered.

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

“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.”*

9. As per the law settled by the Hon'ble Supreme Court, in **Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632**, while



granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would always prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

“31. *In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed*



out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.”

10. The Hon'ble Supreme Court in ***State Vs. Anil Sharma, (1997) 7SCC 187***, 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 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is 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*



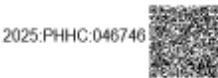
presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

11. 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.

12. 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'.

13. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioners has been prima facie found. Needless to say, the investigation is at the initial stage and in the facts and circumstances, custodial interrogation of the petitioner would be essential and granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.



14. In view of the overall facts and circumstances of the case, the petitioner does not qualify for the grant of anticipatory bail and the same is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

04.04.2025		(RAJESH BHARDWAJ)
<i>rittu</i>		JUDGE
	Whether speaking/reasoned :	Yes/No
	Whether reportable :	Yes/No