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

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**CRM-M-19027-2025
Decided on:07.04.2025**

Sukha Singh

...Petitioner

Versus

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice Rajesh Bhardwaj

Present: Mr. Brijeshwar Singh Bhalla, Advocate,
for the petitioner.

Rajesh Bhardwaj, J. (Oral)

1. Prayer in the present petition, filed under Section 482 of the BNSS, 2023, is for grant of anticipatory bail to the petitioner in a case FIR No.46 dated 11.02.2025, registered under Sections 21(c), 25 & 29 of the NDPS Act, at Police Station Anti Narcotics Force (ANTF), District Amritsar.

2. Succinctly, the facts of the case are that the police party, at about 05.30 pm, received a secret information to the effect that Surjeet Singh @ Surjeet S/o Kulwant Singh @ Keeta, Labha Singh @ Labha S/o Jhimma Singh and Sukh S/o Labha Singh are involved in smuggling of the heroin since long. It was informed that these three individuals used to supply heroin to their customers in the area of Ajnala and today also, they were to come on their Splender motorcycle to supply heroin to one of their customers. If the barricade is laid, they could be arrested along with the contraband. On receiving secret information, report under Section 42 of the NDPS Act was sent and the raiding team reached at the disclosed place at about 06:15 pm. On reaching there, three young men, matching the description as disclosed in the secret information, were found standing with Splender motorcycle near the Langar Hall. The police party surrounded them and could apprehend only two of them. However, third one managed to escape with the motorcycle from the

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place of occurrence. On asking, one of the persons disclosed his name as Surjeet Singh @ Surjeet and the second person disclosed his name as Labha Singh @ Labha. They disclosed name of the third person as Sukh S/o Labha Singh. They were given an offer under Section 50 of the NDPS Act for conducting the search, which they accepted. Thereafter, on conducting the search of Surjeet Singh @ Surjeet, a packet was recovered from the right pocket of his jacket, from which 550 grams of heroin was recovered. From conducting the search of second person, namely, Labha Singh @ Labha, a packet was recovered from the left pocket of his jacket, from which 550 grams of heroin was also recovered. Both of them failed to produce any license regarding possession of the heroin recovered from them and, thus, both of them were arrested for the recovery of total heroin weighing 1 Kg 100 grams. On registration of the FIR, the investigation commenced; the samples were taken and then sent to the FSL. The petitioner is the third person, as disclosed by the co-accused. However, he evaded his arrest. Apprehending arrest, he approached the Court of the Special Court, Amritsar for grant of concession of anticipatory bail, however, after hearing both the sides, the said relief was declined to him vide order dated 20.03.2025. Hence, aggrieved against the said order, the petitioner is before this Court by of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case on the basis of disclosure statement made by the co-accused, which is not an admissible evidence. He submits that the petitioner had given loan to co-accused and had been demanding to return his money as the co-accused did not want to return the same; hence he falsely implicated the petitioner. It is submitted that the petitioner is ready to join the investigation and, thus, in the given facts and circumstances, he deserves to be granted the concession of anticipatory bail.

4. Notice of motion.

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5. On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab, accepts notice on behalf of the respondent-State and has vehemently opposed the bail application and it has been submitted that the petitioner managed to escape from the place of occurrence. From the co-accused, a total heroin weighing 1 Kg 100 grams has been recovered, which is a commercial quantity and investigation is at threshold and no case for grant of anticipatory bail is made out. He, thus, submits that the present petition, being devoid of merit, deserves to be dismissed.

6. After hearing learned counsel for the parties and perusing the available record, it is deciphered that the present FIR was lodged on the basis of the secret information received by the police and the secret information was qua all the three accused including the petitioner. Though rest of the two accused could be arrested by the raiding team but the third one, i.e. the present petitioner, managed to escape along with his motorcycle. On interrogation of the co-accused arrested at the spot, the petitioner was said to be the third person. From the two accused, the contraband heroin weighing 1 Kg 100 grams was recovered. The petitioner in the present case is not only arrayed as an accused on the basis of the disclosure statement of the co-accused but he was specifically named in the secret information received as well. The contraband recovered falls under the commercial quantity and, thus, bar under Section 37 of the NDPS Act is attracted in the present case. The contentions raised by the learned counsel for the petitioner cannot be appreciated at this stage where he has approached this Court for the grant of concession of anticipatory bail. However, the same could be appreciated at the relevant 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:

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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 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring 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

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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 disinterring 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. 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.

11. In view of the facts and circumstances of the present case, this Court is of the opinion that the petitioner do not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the present petition, being devoid of any merit, is hereby dismissed.

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

April 07, 2025
vinod*

(Rajesh Bhardwaj)
Judge

Whether Speaking/Reasoned: NO/YES
Whether Reportable: NO/YES