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

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CRM-M-19805-2025
Decided on:09.04.2025

Manjeet Singh**...Petitioner****Versus****State of Haryana****...Respondent****Coram : Hon'ble Mr. Justice Rajesh Bhardwaj**

Present: Mr. Satnam Singh Gill, 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.392 dated 25.11.2024, registered under Sections 18 of the NDPS Act, 1985 (Section 27A and 29 of the NDPS Act added lateron), at Police Station Sadar Pehowa, District Kurukshetra.

2. Succinctly, the facts of the case are that the police party, while on patrol, received secret information to the effect that Sewa Singh and Punjab Singh both are truck drivers and used to deal in selling of opium since long. It was informed that a few days ago, both of them had left for Jharkhand in truck bearing registration no.PB02-CC-9871, being driven by Sewa Singh along with his cleaner, and truck bearing registration no.PB19-F-9855, being driven by Punjab Singh along with his cleaner, and while returning from Jharkhand, they were bringing huge quantity of opium in these two trucks. If *nakabandi* is laid, both of them could be apprehended along with huge quantity of opium. On finding the information received reliable, the report under Section 42 of the NDPS Act was prepared and barricading was laid by the raiding team. On laying barricade, both the trucks, as disclosed, were found coming and they were stopped by the police. On conducting search, 6 Kgs. 220 grams opium

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and 29 Kgs 920 grams opium was recovered from these two trucks. Thus, a total 36 Kgs 140 grams of opium was recovered. Accused Sewa Singh, Jeet Basu, Punjab Singh and Gurwinder Singh were apprehended by the police party on the spot. They failed to produce any license regarding possession of the opium weighing 36 Kgs. 140 grams and, thus, on registration of the FIR, all were arrested and the investigation commenced. During investigation, co-accused Gurtej Singh made a disclosure statement about the complicity of petitioner Manjeet Singh and, thus, he was also arrayed as an accused. Apprehending arrest, he approached the Court of learned Additional Sessions Judge, Kurukshetra for grant of concession of anticipatory bail, however, after hearing both the sides, the said relief was declined to him vide order dated 07.03.2025. Hence, aggrieved against the said order, the petitioner is before this Court by way 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 the disclosure statement, which is not an admissible evidence. He submits that neither the petitioner is named in the FIR nor in the secret information nor any overt act had been attributed to him. He submits that the petitioner has no concern with the alleged recovery of opium from co-accused. He further submits that the petitioner is in live-in relationship with the wife of co-accused Gurtej Singh and hence, he had sent money in the account of Kulwant Kaur wife of Gurtej Singh. He submits that on account of live-in relationship of the petitioner with the wife of the co-accused Gurtej Singh, he has been implicated in the present false case. He submits that even no *prima facie* case, as alleged, is made out against the petitioner and, thus, he deserves the concession of anticipatory bail.

4. Notice of motion.

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5. On asking of the Court, Mr. Sumit Jain, Addl. A.G., Haryana, accepts notice on behalf of the respondent-State and has vehemently opposed the bail application and it has been submitted that during investigation conducted so far, role of the petitioner has been surfaced wherein he has been found having paid an amount of Rs.9 lacs for purchasing the recovered contraband. It is submitted that the investigation is at the initial stage and grant of anticipatory bail to the petitioner at this stage would seriously prejudice the ongoing investigation and submits that for the free and fair investigation, his custodial interrogation is essential. 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 on the basis of secret information, on laying barricade, total opium of 36 Kgs 140 grams had been recovered from two trucks. During interrogation of the co-accused, *prima facie* complicity of the petitioner was found, wherein he had paid Rs.9 lacs for purchasing the recovered contraband. The phone call records and the bank transactions of the money by the petitioner in the account of wife of the co-accused *prima facie* establish role of the petitioner in the commission of offence. Since the recovery effected of 36 Kgs 140 grams of opium falls within the category of commercial quantity, therefore, bar under Section 37 of the NDPS is attracted in the present case. Since the investigation is at threshold, therefore, 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. 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.

11. 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.

12. 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.

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

April 09, 2025
vinod*

(Rajesh Bhardwaj)
Judge

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