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

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Decided on:09.04.2025**

Harminder Singh**...Petitioner****Versus****State of Punjab****...Respondent****Coram : Hon'ble Mr. Justice Rajesh Bhardwaj****Present: Mr. Ranjodh Singh Sidhu, 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.110 dated 28.08.2024, registered under Sections 21(C), 29 of the NDPS Act, 1985 and Section 25 of the Arms Act, 1959, at Police Station Khalra, District Tarn Taran.

2. Succinctly, the facts of the case are that the police party, while on patrol, received secret information to the effect that Kuljit Singh S/o Tarsem Singh, in collusion with Pakistani smugglers, used to import and supply heroin and today, he was reported to be coming from village Kalsian towards Bhikhiwind and if barricading is laid, he can be apprehended with the contraband. On receiving secret information, a raiding team was constituted and barricading was laid. While checking the ongoing vehicles, the raiding team saw the motorcycle, as disclosed, being driven by a clean shaven young man. He was signalled to stop the motorcycle but he tried to escape in hurry. However, the motorcycle slipped and he fell down. The police party apprehended him and on asking, he disclosed his name as Kuljit Singh. On conducting his search, a black cloth wrapped around his waist under the t-shirt



was found containing a packet. On opening the packet, heroin weighing 255 grams was recovered. Kuljit Singh failed to produce any license regarding possession of the heroin and, thus, he was arrested on the spot. The investigation commenced and during investigation, Kuljit Singh made a disclosure statement about complicity of Harminder Singh (petitioner herein) and, thus, he was also arrayed as an accused vide DDR No.26 dated 26.03.2025. Apprehending arrest, the petitioner approached the Court of learned Additional Sessions Judge, Tarn Taran for grant of concession of anticipatory bail, however, after hearing both the sides, the said relief was declined to him vide order dated 28.03.2025. 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 recovery has been effected from him. He submits that the essential ingredients in order to bring the offence under Section 29 of the NDPS are missing in the present case. . It is submitted that though the petitioner is involved in two more cases of the similar nature, but he is on bail in those cases. He further submits that since nothing has been recovered from conscious possession of the petitioner in the present case, therefore, no *prima facie* case, alleged, is made out against the petitioner and, thus, he deserves the concession of anticipatory bail.

4. Notice of motion.

5. On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab, accepts notice on behalf of the respondent-State and has vehemently opposed



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the bail application and it has been submitted that the FIR was registered in the present case on the basis of the secret information and 255 grams of heroin was recovered from the co-accused, who was arrested at the spot. He further submits that recovered heroin from the co-accused falls under the category of commercial quantity and, thus, bar under Section 37 of the NDPS is attracted against the petitioner. He further submits that during investigation conducted so far, role of the petitioner has been established as he is found to be the supplier of the contraband recovered from the co-accused and 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 heroin of 255 grams had been recovered from the co-accused Kuljit Singh. During interrogation of the co-accused, *prima facie* complicity of the petitioner was found, wherein he has been found to be supplier of the recovered contraband. Since the recovery effected of 255 grams of heroin falls within the category of commercial quantity, therefore, bar under Section 37 of the NDPS is attracted in the present case. The petitioner is involved in two more cases bearing FIR No.147 dated 23.12.2018, registered under Sections 420, 465, 467, 468 & 120-B of the IPC, 1860, at Police Station Bhikhiwind, District Tarn Taran and FIR No.93 dated 30.08.2024, registered under Section 61 of the Punjab Excise Act, 1914, at Police Station Bhikhiwind, District Tarn Taran, which depicts his criminal antecedents. 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:

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 ensconded with a favorable order under Section 438 if 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 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.



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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.

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

April 09, 2025
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(Rajesh Bhardwaj)
Judge

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