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

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CRM-M-20315-2025
Decided on:09.04.2025

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

Present: Mr. Tejas Bansal, 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.318 dated 29.11.2024, registered under Sections 15(b), 61 & 85 of the NDPS Act, at Police Station Ding, District Sirsa.

2. Succinctly, the facts of the case are that the police party, while patrolling on 29.11.2024, when reached a little ahead of Mochiwali towards Jodhka, they saw a silver car make Alto parked on the side of the road. On suspicion, they checked the Alto car and found 4 plastic bags of black colour lying on rear seat of the car. They suspected some narcotic in those bags and, thus, searched for the driver in the fields nearby. However, they did not find any clue about the driver and, thus, checked the Alto car. On search in presence of the Gazetted Officer, all the four bags were taken out of the car and they were found containing poppy husk. On weighing, the total poppy husk recovered from all the four bags was found to be 79 Kgs 885 grams. The FIR was registered and the investigation commenced. During investigation, the complicity of the petitioner was found and, thus, he was arrayed as an accused. Apprehending arrest, he approached the Court of the Addl. Sessions Judge, FTSC, Sirsa for grant of concession of anticipatory bail, however, after hearing

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both the sides, the said relief was declined to him vide order dated 04.04.2025. 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. He submits that neither the petitioner is named in the FIR nor any recovery has been effected from him. However, he has been implicated in the present case on the basis of the disclosure statement of the co-accused Harpal Singh @ Punnu, which is not an admissible evidence. 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 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.

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, the complicity of the petitioner has been found and, thus, for the free and fair investigation, his custodial interrogation is essential for unravelling the truth. 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 79 Kgs 885 grams of poppy husk has been recovered from a car found parked alongside the road. During investigation, the co-accused Harpal Singh @ Punnu was arrested who suffered his disclosure statement to the effect that he had given Rs.20,000/- to the petitioner for purchasing the recovered contraband. It has been further found that the petitioner and co-accused Harpal Singh @ Punnu purchased the contraband from co-accused Rakesh for a total consideration of Rs.2,40,000/-.

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Since the recovery effected of poppy husk from four plastic bags 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 for the offences under the NDPS Act itself bearing FIR No.152 dated 23.06.2019, registered under Sections 22/25/61/85 of the NDPS Act, at Police Station Sardulgarh, District Mansa and FIR No.115 dated 10.03.2022, registered under Sections 15B/61/85 of the NDPS Act, at Police Station Fatehabad, District Fatehabad, which depicts his criminal antecedents. 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*

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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 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.

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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.

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