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

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CRM-M-32046-2025 (O&M)
Date of decision: 14.07.2025

Sukhwant Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Kamal Narula, Advocate
for the petitioner.

Ms. Himani Arora, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*), is for grant of anticipatory bail to the petitioner in FIR No. 85 dated 18.08.2024, registered under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) and Section 25 of the Arms Act, 1959 at Police Station Kulgarhi, District Ferozepur.

2. Brief facts of the case relevant for the disposal of the present petition are that on 18.08.2024, on the basis of a secret information, co-accused Vishal @ Shally and Sonu, while coming in a car bearing registration number PB-05-O-9091, were apprehended by a police party and recovery of 1.5 kg. of heroin, drug money of Rs. 12,90,000/- and one country made pistol of .315 bore was effected from them. Upon interrogation, co-accused Vishal @ Shally disclosed that the recovered contraband was

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purchased from the present petitioner. On the basis of the same, the petitioner was nominated in this case as an accused. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Judge, Special Court, Ferozepur but the same had been dismissed, vide order dated 01.10.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He was neither named in the FIR nor was found at the spot. He has been involved in this case on the basis of the disclosure statement made by the co-accused, which is not admissible in evidence. There is nothing on record to connect the petitioner with the subject crime. He was not in Punjab during the relevant time. He is ready to join the investigation. No useful purpose would be served by detaining him in custody. Therefore, it is urged that the petition deserves to be allowed. To fortify his argument, learned counsel for the petitioner has relied upon the authority of Hon'ble Supreme Court rendered in ***Tofan Singh vs. State of Tamil Nadu : (2021) 4 SCC 1.***

4. *Per contra*, learned Assistant Advocate General, Punjab has argued that though the petitioner has been nominated in this case on the basis of the disclosure suffered by the co-accused but during the course of investigation, his complicity in the subject crime has been duly established. The petitioner is a habitual offender as there are three other cases which have been registered against him under the NDPS Act. He had supplied the recovered contraband to the co-accused, quantity of which, falls within the commercial quantity. His custodial interrogation is must for proper investigation in the matter as well as for effecting further recovery of

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contraband, if any. It is, thus, argued that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also perused the material placed on record.

6. The allegations against the petitioner are that he was the supplier of the contraband recovered from the above named co-accused. The quantity of the recovered contraband is huge and obviously falls within the ambit of commercial quantity. The petitioner has criminal antecedents as he is shown to be involved in three more cases of similar nature. The allegations against him are quite serious. No sparing or extraordinary circumstance has been made out in his favour for grant of pre-arrest bail. Rather, his custodial interrogation is required for conducting proper investigation in the matter and also for effecting further recovery of the contraband, if any. So far as the ratio of law as laid down by Hon'ble Supreme Court in ***Tofan Singh***'s case (supra) is concerned, the same stands clarified by Hon'ble Supreme Court in ***State of Haryana vs. Samarth Kumar : 2022(3) RCR (Criminal) 991***, wherein it has been held that the advantage of decision of ***Tofan Singh***'s case (supra) can be taken in regular bail application or at the time of final hearing after conclusion of trial and not while seeking concession of pre-arrest bail. The well settled proposition of law is that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses. The powers under Section 482 of BNSS are to be exercised in extraordinary and sparing circumstances. More so, custodial interrogation of a suspected person is

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qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 482 of BNSS. Many useful information can be disinterred during custodial interrogation. Keeping in view the discussion as made above, I am of the considered opinion that no extraordinary or sparing circumstance entitling the petitioner to seek concession of pre-arrest bail has been made out. Accordingly, finding no merit, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

14.07.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No