



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

215

CRM-M-34214-2025

Date of decision: 30.07.2025

JOGINDER

...PETITIONER

V/s

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Raman Chawla, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

SUMEET GOEL, J.

1. Present petition has been filed under Section 482 of BNSS, 2023 for grant of anticipatory bail to the petitioner in case bearing FIR No. 169 dated 29.05.2025, registered for the offences punishable under Sections 20, 20-C, 27-A, 29/61/85 of NDPS Act, 1985 at Police Station Sadar Narwana, District Jind.

2. On 04.07.2025, the following order was passed:-

“Apprehending his arrest in FIR No.169 dated 29.05.2025 registered for offences punishable under Sections 20, 20-C, 27-A, 29/61/85 of NDPS Act, 1985 at Police Station Sadar Narwana, District Jind; the petitioner has preferred this petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking pre-arrest bail.

Inter-alia contends that the petitioner is sought to be implicated into the FIR in question solely on the basis of a disclosure statement made by co-accused from whom the contraband in question (21 kgs 700 gms ganja) has been allegedly recovered & the petitioner is willing to join investigation and cooperate therein. In order to buttress his arguments, learned counsel for the petitioner has relied upon the dicta of the judgments of the Hon'ble Supreme Court in 'Vijay Singh versus The State of Haryana' bearing Special Leave to Appeal (Crl.) No(s).1266/2023', 'State by (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta & Anr' 2022(1) RCR (Criminal) 762, 'Tofan Singh vs. State of Tamil Nadu, AIR 2020 Supreme Court



5592 and 'Smt. Najmunisha, Abdul Hamid Chandmiya @ Ladoo Bapu vs. State of Gujrat, Narcotics Control Bureau' 2024 INSC 290.

Notice of motion.

On asking of the Court, Mr. Aashish Bishnoi, DAG, Haryana, appears and accepts notice on behalf of the respondent-State. Adjourned to 30.07.2025.

The petitioner is directed to appear before the Investigating Officer on 09.07.2025 at 11:00 A.M. in concerned Police Station and join investigation. In the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal/surety bond(s) to the satisfaction of the Arresting Officer/Investigating Officer. As and when further called by Investigating Officer, the petitioner shall join the investigation. He shall abide by the condition(s) enumerated under Section 482(2) of Bharatiya Nagarik Suraksha Sanhita, 2023."

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further argued that there is no link or connection between the petitioner and the co-accused (from whom the contraband is alleged to have been recovered) and the petitioner is sought to be implicated only on the basis of disclosure statement of the co-accused from whom the contraband is alleged to have been recovered. Learned counsel has further submitted that petitioner has joined the investigation and has cooperated therein. On the strength of these arguments, learned counsel has sought for grant of anticipatory bail to the petitioner.

4. Learned State counsel (on instructions from ASI Suresh Kumar) has submitted that the petitioner has joined investigation in terms of interim order/protection earlier afforded to the petitioner and is not required for custodial interrogation. He has, however, submitted that since the FIR in question is under NDPS Act of 1985, the petitioner ought not to be extended the concession of anticipatory bail.



5. I have heard learned counsel for the rival parties and have perused the available record.

6. At this juncture, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court titled as '**Tofan Singh vs. State of Tamil Nadu, AIR 2020 Supreme Court 5592**', relevant whereof reads as under: "155. We answer the reference by stating:

(i) That the officers who are invested with powers under section 53 of the NDPS Act are "police officers within the meaning of section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act

(ii) That a statement recorded under section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act."

More recently, the Hon'ble Supreme Court in a judgment titled as 'Smt. Najmunisha, Abdul Hamid Chandmiya @ Ladoo Bapu Vs. State of Gujrat, Narcotics Control Bureau' 2024 INSC 290', has reiterated the ratio decidendi of the judgment of Hon'ble Supreme Court in the case of Tofan Singh (supra).

6.1 Further, the Hon'ble Supreme Court; while dealing with a plea for bail in a case under NDPS Act, 1985; in a judgment titled as '**State by (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta & Anr.**', 2022(1) RCR (Criminal) 762, has held as under:

"9. Having gone through the records alongwith the tabulated statement of the respondents submitted on behalf of the petitioner NCB and on carefully perusing the impugned orders passed in each case, it emerges that except for the voluntary statements of A1 and A2 in the first case and that of the respondents themselves recorded under Section 67 of the NDPS Act, it appears, prima facie, that no substantial material was available with the prosecution at the time of arrest to connect the respondents with the allegations levelled against them of indulging in drug trafficking. It has not been denied by the prosecution that except for the respondent in SLP (Crl.) No. 1569/2021, none of the other respondents were found to be in possession of commercial quantities of psychotropic substances, as contemplated under the NDPS Act

10 It has been held in clear terms in Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1, that a confessional statement recorded under Section 67



of the NDPS Act will remain inadmissible in the trial of an offence under the NDPS Act. In the teeth of the aforesaid decision, the arrest made by the petitioner NCB, on the basis of the confession/voluntary statements of the respondents or the coaccused under Section 67 of the NDPS Act, cannot form the basis for overturning the impugned orders releasing them on bail. The CDR details of some of the accused or the allegations of tampering of evidence on the part of one of the respondents is an aspect that will be examined at the stage of trial. For the aforesaid reason, this Court is not inclined to interfere in the orders dated 16th September, 2019, 14th January, 2020, 16th January, 2020, 19th December, 2019 and 20th January, 2020 passed in SLP (Crl.) No. 22702/2020, SLP (Crl.) No. 1454/2021, SLP (Crl.) No. 1465/2021, SLP (Crl.) No. 177374/2021 and SLP (Crl.) No. 2080/2021 respectively. The impugned orders are, accordingly, upheld and the Special Leave Petitions filed by the petitioner NCB seeking cancellation of bail granted to the respective respondents, are dismissed as meritless."

6.2 Still further, the Hon'ble Supreme Court; while dealing with a plea for grant of anticipatory bail in a case under NDPS Act, 1985; in a judgment titled as '**Vijay Singh vs. The State of Haryana, bearing Special Leave to Appeal (Crl.) No.(s) 1266/2023 decided on 17.05.2023**', has held as under:

"The petitioner is alleged to have committed offences under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter called the NDPS Act". His application for anticipatory bail was rejected by the High Court. The allegations in the FIR are that 1.7 Kg of Poppy Straw (Doda Post) was recovered from the coaccused. The petitioner concededly was not present at the spot but was named by the coaccused. That apart there is no other material to implicate the petitioner. The prosecution urges that another case with allegations of commission of offence under the NDPS Act are pending against the petitioner. It is not denied that in those proceedings he was granted bail. Having regard to these circumstances, the petitioner is directed to the enlarged on anticipatory bail, subject to such terms and conditions as the trial Court may impose.

The petition is allowed. All pending applications are disposed of."

6.3 It is a well established principle of law that at the incipient stage of investigation, when the investigation is still ongoing, the Court must restraint and refrain from undertaking a meticulous examination of evidence collected thus far. The process of investigation is dynamic, and evidence may evolve or be corroborated, as the investigation progresses. However, as anticipatory bail pertains to life and liberty of individual, courts are



obligated to strike a balance between safeguarding personal liberty and ensuring the effective administration of justice as also investigation.

The final evidentiary value and admissibility of the disclosure statement made by a co-accused fall within the domain of the trial Court and are to be adjudicated during the course of the trial in accordance with established principles of law. However, while adjudicating a plea for anticipatory bail, this court cannot remain oblivious to the circumstances under which the petitioner has been arraigned or implicated, including the nature of the allegations, the evidence linking the petitioner to the offence as well as the specific role attributed to the petitioner in the commission of the alleged offence. A prima facie examination of these factors is essential to ensure that the process of law is not misused, abused or misdirected.

7. The petitioner is sought to be arraigned as an accused in the FIR in question, solely, on the basis of disclosure statement made by co accused from whom there is recovery of contraband. As per the prosecution version, there is no other material available to connect the petitioner with the contraband in question. It is not in dispute that the petitioner was not present at the spot. The veracity and weightage required to be attached to the disclosure statement made by the co-accused will be fully tested at the time of trial. However, the same cannot be construed as sufficient by itself to decline the concession of anticipatory bail to the petitioner especially when the petitioner has joined the investigation in terms of the interim protection earlier afforded by this Court and has cooperated therein.

The petitioner is stated to be involved in two other cases under NDPS Act, 1985 but, in the considered opinion of this Court, the factum of petitioner being involved in other criminal cases would not be a reason,



sufficient by itself, to decline the concession of anticipatory bail to the petitioner qua the FIR in question especially when the petitioner has been able to make out a case for grant of anticipatory bail in the FIR in question on merits thereof.

8. In view of above, the petition is allowed and interim order dated 04.07.2025, passed by this Court is made absolute, subject to the conditions as enumerated under Section 482(2) BNSS, 2023.

9. This order should not be treated as “blanket” order. It will not be interpreted as granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

10. Liberty is reserved in favour of State to move for cancellation/recall of this order in case the petitioner violates any condition stipulated under Section 482(2) BNSS, 2023 or upon showing any other sufficient cause.

11. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.

12. Pending applications, if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

July 30, 2025
jatin

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No