

2025:PHHC:059051



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

208

CRM-M-50446-2024 (O&M)
Date of decision: 07.05.2025

Lakwinder Singh @ Lavi Fauji

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Veneet Sharma, Advocate
for the petitioner.

Ms. Himani Arora, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 438 of Cr.P.C., is for grant of anticipatory bail to the petitioner in FIR No. 298 dated 31.12.2023, registered under Sections 21, 21-C, 23, 25, 27-A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) and Sections 25, 6, 7, 8 of the Arms Act, 1959 at Police Station Islamabad, District Amritsar.

2. Brief facts of the case relevant for the disposal of the present petition are that on 31.12.2023, on receipt of a secret information that co-accused Sandeep Singh @ Laddi was in connection with big drug smugglers and on that day they were bringing consignments of heroin and illegal arms from the smugglers of Pakistan through the Indo-Pak border and that aforesaid Sandeep Singh and one Roshan Singh were waiting for someone at the backside of the market in front of Guru Nanak Dev

2025:PHHC:059051



University in a car bearing registration number PB-06-BB-4064 in order to supply them heroin and illegal weapons, a raid was conducted and co-accused Sandeep Singh and Roshan Singh were apprehended by the raiding police party and the recovery of 19 Kgs. of heroin and one 9 MM pistol loaded with 06 live cartridges and one country made pistol of .32 bore loaded with 06 live cartridges was effected from them. They were arrested at the spot. During the course of investigation, on the basis of the disclosure statement of co-accused Sandeep Singh @ Laddi, three more pistols with .32 live cartridges and an amount of Rs. 15,00,000/- were recovered from his rented accommodation. Further, on the basis of the disclosure statement suffered by co-accused Roshan Singh, two pistols with 12 live cartridges and an amount of Rs.8,00,000/- were recovered. The petitioner has been nominated in this case on the basis of the disclosure statement suffered by co-accused Sandeep Singh @ Laddi on 05.01.2023, wherein he stated that the petitioner had taken 700-800 grams of heroin from him four to five times. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Judge, Special Court, Amritsar but the same had been dismissed, vide order dated 02.08.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He was not found at the spot and has been involved in this case on the basis of the disclosure statement made by the co-accused, which is not admissible in evidence against him. The petitioner has no connection with the aforesaid co-accused or with the alleged recovery effected from them. He is ready to join the investigation. No useful purpose would be served by detaining him into custody.

2025:PHHC:059051



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. Status report has been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Punjab has argued that the petitioner is not entitled to get benefit of anticipatory bail. She has argued that a commercial quantity of the contraband has been recovered from the co-accused, apart from several illegal weapons and live cartridges. Drug money of Rs.23,00,000/- has also been recovered in this case. There are serious and specific allegations against the petitioner. He used to buy heroin from the above named co-accused and was actively involved in drug peddling. The complicity of the petitioner in the subject offences has been *prima facie* established during the course of investigation. He is involved in one more case of similar nature. Several other persons have been nominated in this case as accused as they including the petitioner were part of a gang, which was indulged in cross border smuggling of the contraband and arms and ammunition. Custodial interrogation of the petitioner is must for proper investigation in the matter as well as for effecting further recovery of contraband, if any. It is, thus, argued that the petition is liable to be dismissed.

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

6. The petitioner has been nominated in this case on the basis of the disclosure statement suffered by co-accused Sandeep Singh @ Laddi.

2025:PHHC:059051



The allegations against the petitioner are that he used to buy heroin from the co-accused and sell it further to others. A perusal of the status report reveals that the co-accused and the present petitioner are part of a big smuggling gang, which is operating through Indo-Pak border. Apart from a sum of Rs.23,00,000/-, several illegal weapons and live cartridges have been recovered from the co-accused. He is shown to be involved in one more case of similar nature. The aforesaid car bearing registration number PB-06-BB-4064, in which co-accused Sandeep Singh and one Roshan Singh were waiting for the drug smugglers and from which aforesaid recovery of the contraband and illegal weapons were made, has been found to be in the name of the present petitioner. There are serious and specific allegations against the petitioner. In the given facts and circumstances, custodial interrogation of the petitioner is must. 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 438 of Cr.P.C. are to be exercised in extraordinary and sparing circumstances. More so, custodial interrogation of a suspected person is

2025:PHHC:059051



qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of Cr.P.C. Many useful information can be disinterred during custodial interrogation. It is also a matter of discretion to grant or not to grant pre-arrest bail. 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 rather his custodial interrogation is required for thorough investigation in the matter by the police. 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.

07.05.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No