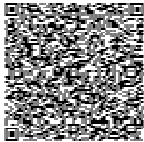


2025:PHHC:007844



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

208

CRM-M-50144-2024 (O&M)
Date of decision: 20.01.2025

Dipak Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

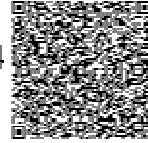
Present:- Mr. Daman Jeet Bhoriwal, Advocate
for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, 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. 66 dated 13.09.2024, registered under Sections 21(A) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) and Section 52 of the Prisons Act, 1894 at Police Station Cantt., District Bathinda.
2. Brief facts of the case relevant for the disposal of the present petition are that the aforementioned FIR has been registered on the complaint filed by the Assistant Superintendent of Central Jail, Bathinda alleging therein that a secret information was received that co-accused Mewa Singh lodged in the said jail in connection with a case, was attempting to supply the contrabands in the jail in connivance with employees of the jail. On the basis

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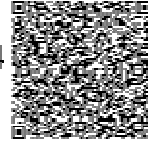


of the call recording of Mewa Singh with Amrit, who was his brother and confined in the same jail, it was found that Amrit had purchased intoxicating substance from a person of Barnala, which was handed over to the petitioner to supply the same to Amrit and in return, he had received an amount of Rs. 4800/-. It was further found that co-accused Balbir Singh @ Kala, who was lodged in the jail in connection with a murder case, had introduced co-accused Mewa Singh with the present petitioner. On conducting personal search of co-accused Balbir Singh @ Kala, recovery of 10 mg of heroin was effected. He disclosed that the petitioner, who was working as an Electrician in the jail, used to supply the contraband to the inmates of the jail. On the basis of the same, the petitioner has been 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, Bathinda but the same had been dismissed, vide order dated 25.09.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The petitioner is working as an Electrician in the aforesaid jail. He is not involved in any other case under the NDPS Act. There is no phone call exchange between the petitioner and co-accused Mewa Singh. Proper procedure as prescribed under the NDPS Act has not been followed while registering the present FIR. No recovery is to be effected from the petitioner. 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.

4. Status report has been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Punjab has argued

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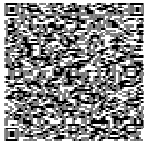


that there are serious and specific allegations against the petitioner. He was working as an Electrician in the said jail but on the pretext of the same, he used to supply contraband to the prisoners. In order to know the source of the contraband and to burst the nexus of the co-accused, custodial interrogation 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 heard learned counsel for the parties at considerable length and have also perused the material placed on record.

6. The petitioner is alleged to be working as an Electrician in the aforesaid Jail. As per allegations, he used to supply contraband to the prisoners to earn money. Some recovery of contraband has also been effected from the co-accused. In order to know the source of the contraband and for effecting recovery of the contraband, if any, his custodial interrogation is required. 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 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. It has also to be seen that an order of anticipatory bail does not operate as inroad in the normal

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legal procedure of criminal cases by the trial Court. 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.

20.01.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No