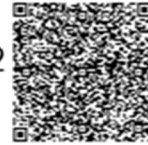


2025:PHHC:117642



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

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CRM-M-48456-2025 (O&M)

Date of decision: 01.09.2025

Harpreet @ Ashu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Simranjit Singh, Advocate
for the petitioner.

Ms. Ramta Chowdhary, DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition that has been filed by the petitioner under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) for grant of anticipatory bail to him in case arising out of FIR No. 34 dated 14.02.2025 registered under Sections 21, 29 and 31 of the Narcotic Drugs and Psychotropic Substance Act, 1985 (*for short 'NDPS Act'*) at Police Station Rama Mandi, District Police Commissionerate Jalandhar. The first petition, bearing **CRM-M-17285-2025**, was dismissed by this Court, vide order dated 28.03.2025.

2. The petitioner has been booked in this case on the basis of the disclosure statement suffered by co-accused Raj Pal @ Palli, who was apprehended by the police party on 14.02.2025 and from whom, firstly recovery of 52 grams of heroin and thereafter another recovery of 206 grams

of heroin was effected. The operative part of the order dated 28.03.2025, whereby the first bail petition of the petitioner was dismissed by this Court, reads as under :

“7. The petitioner has been nominated in this case on the basis of the disclosure made by co-accused Raj Pal @ Palli, from whose custody, recovery of 52 grams of *heroin* was effected. For conducting thorough investigation in the matter, the 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 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 has also

to be seen that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. 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.”

3. Learned counsel for the petitioner has argued that since the challan qua the co-accused stands presented, therefore, the custodial interrogation of the petitioner is not required. With regard to question of maintainability of the second application for grant of pre-arrest bail, it is submitted by him that the same is very much maintainable as the change in circumstances justifies the filing of successive anticipatory bail applications by an accused. To fortify his argument, he has relied upon the judgments rendered by this Court in ***Rifakat vs. State of Haryana, CRM-M-30576-2023***, decided on 03.07.2023 and ***Bhisham Singh vs. State of Haryana, CRM-M-13315-2024***, decided on 09.04.2024.

4. *Per contra*, learned State counsel, who has advance notice of the petition, has argued that the successive applications for grant of pre-arrest bail are not maintainable and must not be entertained. He has further argued that the reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by passing a speaking order. In this regard, he has placed on record the authorities cited as ***Md. Shamim Khan vs. State of Jharkhand : 2022 (1) Cri. CC 475, G. R. Ananada Babu***

vs. State of Tamil Nadu & another : 2021 (1) RCR (Criminal) 843, Sukhjit Singh @ Bawa and others vs. State of Punjab and another : 2022 (1) RCR (Criminal) 352, Talwinder Singh vs. State of Punjab : 2021 (3) RCR (Criminal) 368 and Sudip Sen vs. State of West Bengal : 2010 CrL L.J. 4628.

5. Learned State counsel has further argued that even otherwise, the gravity of the allegations as levelled against the petitioner does not justify that he should be extended benefit of pre-arrest bail and it is urged that the petition does not deserve to be allowed.

6. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

7. The ratio of law as laid down by the Apex Court in the authorities, which have been relied upon by both the parties, is that the practice of filing second bail application under Section 482 of BNSS after the first being rejected should be deprecated, once it is rejected by speaking order and that too by the same Judge. In **Bhisham**'s case (supra), a co-ordinate Bench of this Court has observed that no rigid or universal criteria can possibly be delineated to conclusively govern the exercise of judicial discretion, in determining as to constitute subsequent/substantial change in circumstances and factual flexibility, one additional or different fact, may make a sea of difference between two cases and no exhaustive guidelines can be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance and this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive anticipatory bail applications. In view of the position of law as laid down in the above cited authorities, it observed that though a second

application for grant of anticipatory bail cannot be considered to be not maintainable but the same has to be taken into consideration only when there is some material/substantial change in circumstances of the case due to subsequent events, whereby some totally new material has come on record or where an earlier finding has become obsolete.

8. In the present case, as discussed above, the petitioner has been booked on the allegations that he had supplied the recovered contraband to the above named co-accused. The only plea, which has been taken by the petitioner for filing the present petition, is that challan qua the co-accused stands presented. It is neither pleaded nor any argument has been raised on the point that as to how on presentation of challan against the co-accused, the petitioner would become entitled to be extended benefit of anticipatory bail. As such, no ground has been made out for allowing the present petition. Accordingly, the same is dismissed.

9. 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.

01.09.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No