



**103 THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.50813 of 2025
Date of Decision: 17.09.2025**

Om Parkash

..... Petitioner

Versus

State of Haryana

....Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Gurmeet Singh Saini, Advocate for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana

RAJESH BHARDWAJ, J.

1. Present petition has been filed praying for the grant of anticipatory bail to the petitioner in case bearing FIR No.0108, dated 21.04.2024, under Sections 15(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (Sections 25, 29 of NDPS Act, added lateron) registered at Police Station Ding, District Sirsa.

2. Succinctly the facts of the case are that the police party while on patrolling on 21.04.2024 received a secret information to the effect that a huge quantity of poppy husk is being smuggled in truck bearing registration No.RJ-14-GP-8793. It was informed that on the front windshield of the truck 'On Army Duty' has been written and if the barricading is laid at Ding *Morh* (Turn) then the truck driver could be apprehended with the poppy husk, loaded in it. On receiving the secret information the raiding party was constituted and the barricading was laid at the disclosed place. The truck, as disclosed, was seen coming and the



same was stopped. The driver of the Truck disclosed his name to be Vikas Kumar. On conducting the search of the truck, 117 plastic bags containing poppy husk were recovered and on weighing, total 2245 kgs poppy husk, was recovered. FIR was registered and he was arrested on spot. Truck driver, namely, Vikas Kumar disclosed the name of truck owner to be Om Parkash (petitioner) S/o Mani Ram. Thus, he was also arrayed as an accused. On registration of FIR, investigation commenced. Apprehending arrest, the petitioner approached the Court of learned Additional Sessions Judge, Sirsa praying for the grant of anticipatory bail. However, after hearing both the sides, finding no merit in the same, the learned Additional Sessions Judge, Sirsa dismissed the petition filed by the petitioner vide his order dated 25.03.2025. Hence being aggrieved, the petitioner is before this Court by way of filing the present petition praying for the grant of anticipatory bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He submits that neither the petitioner was present at the spot nor any recovery has been effected from him. It is submitted that at the time of recovery co-accused, namely, Vikas Kumar was driving the truck whereas another co-accused, namely, Satpal Bishnoi @ Satbir had taken the truck on rent. He submits that the petitioner had no knowledge about the contraband loaded in his truck and thus, no *prima facie* case as alleged is made out against the petitioner. He thus, submit that the petitioner deserves to be granted anticipatory bail.



4. Learned State counsel had opposed the submission made by counsel for the petitioner and has submitted that the petitioner is the owner of the truck bearing No.RJ-14-GP-8793. He has submitted that the allegations made against the petitioner are serious in nature. He has thus submitted that the investigation is at threshold and thus custodial interrogation of the petitioner is essential. He has submitted that no case for the grant of anticipatory bail to the petitioner is made out and thus the present petition being devoid of merit deserves to be dismissed.

5. On hearing of the counsel for the parties and perusing the record, it is deciphered that on the basis of secret information the investigating agencies recovered 2245 kgs of poppy husk from the truck bearing No.RJ-14-GP-8793. Truck driver, namely, Vikas Kumar was arrested on spot and he disclosed about the owner of the truck, who is none other than the petitioner. The arguments raised by counsel for the petitioner that the truck was given on rent and petitioner had no knowledge about the contraband recovered, are purely matter of investigation and the same cannot be accepted at this stage. Admittedly the recovery effected is commercial quantity.

6. For the consideration of anticipatory bail, the statutory parameters are given under Section 482 (1) & (2) BNSS which reads as under:-

“Direction for grant of bail to person apprehending arrest:

1. *When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction*



under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

2. *When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-*

- (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
- (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
- (iii) a condition that the person shall not leave India without the previous permission of the Court;*
- (iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.”*

7. As per the law settled by the Hon'ble Supreme Court, in ***Gurbaksh Singh Sibbia Vs. State of Punjab***, AIR 1980 SC 1632, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would always prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

“31. *In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other*



hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to



impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.”

8. The Hon'ble Supreme Court in ***State Vs. Anil Sharma, (1997) 7SCC 187***, held as under:-

“6. *We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”*

9. The petitioner has approached this Court praying for grant of anticipatory bail, however, Hon'ble Supreme Court in ***The State of Haryana vs. Samarth Kumar, 2022 Livelaw (SC) 622*** has held that in the cases like the present one, the accused may take advantage of facts like no recovery was effected from him and that he was implicated on the basis of disclosure statement made by the main accused, at the time of



arguing regular bail application or at the time of final hearing after conclusion of trial.

10. Hon'ble Supreme Court in State by *the Inspector of Police vs. B. Ramu, 2024(1) Law Herald (SC)* has held as under:-

11. 'In case of recovery of such a huge quantity of narcotic substance, the Courts should be slow in granting even regular bail to the accused what to talk of anticipatory bail more so when the accused is alleged to be having criminal antecedents'.

11. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been prima facie found. Allegations made against the petitioner are serious in nature. Needless to say, the investigation is at the initial stage and in the facts and circumstances, custodial interrogation of the petitioner would be essential and granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

12. In view of the overall facts and circumstances of the case, the petitioner does not qualify for the grant of anticipatory bail and the same is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

17.09.2025

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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No