

2025.PHHC.013044



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

218-2

CRM-M-55523-2024
DATE OF DECISION: 23.01.2025

PUPINDER SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. R.S. Manhas, Advocate for the petitioner(s).

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)**1. Relief Sought**

This petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail to the petitioner in case FIR No.57 Dated 27.04.2024, under Sections 21 (c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 27-A and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 added later on) registered at Police Station Division No.1, Jalandhar, District Jalandhar (Annexure P-1).

2. Facts:-

The contents of the FIR reads as under:-

‘SHO, PS Division No.1, Jalandhar, Jai Hind, today I/SI along with SI Jaswinder Singh NO.2132, ASI Gurmail Singh No.2411, ASI Amritpal Singh No.456, ASI Balkar Mattu No.2197, ASI Gauri Shankar No.1905, S/CT Nitin Tondon No.1584, S/CT Surinderpal No.2294, HC Amanjot Kaur No.999,

CT Prince Thind NO.497 were on patrolling on Govt. vehicle Scorpio bearing registration No.PB65-BG-2591 which was being driven by CT Jaswinder Singh No.218, another govt. vehicle Balero bearing registration No.PB-08-DS-4498 which was being driven by CT Sukhjinder Singh No.2367 along with Laptop printer, present on Y-point Bhagat Singh Colony Bypass for installing the naka and the suspected vehicle were being checked. In the meanwhile one white colour Innova car bearing registration No. PB08-BS-2958 saw coming from the side of GT Road which was being driven by one cropped hair person and which was signaled to stop and he tried to ran away from the spot. The driver of the said vehicle was apprehended with the help of police officials and asked his name and address who disclosed his name as Satnam Singh @ Babbi son of Gurdev Singh resident of village Thadia, PS Sadar Banga, District SBS Nagar. Thereafter, I/SI disclosed my identity to said Satnam Singh @ Babbi son of Gurdev Singh resident of village Thadia, PS Sadar Banga, District SBS Nagar and served him notice u/s 50 NDPS Act that I am SI Sukhraj Singh and posted at CIA Staff Jalandhar. The name plate is affixed on my uniform and I have suspicion that some intoxicant substance in your white colour Innova car bearing registration No. PB08-BS-2958 reason being you and your white colour Innova car bearing registration No. PB08-BS-2958 have to be searched. You have legal right that you can get conduct the search of your white colour Innova car bearing registration No. PB08-BS-2958 from Magistrate or any Gazetted Officer. On that he told that he want to get the search of his car from a Gazetted Officer. Thereafter, I/SI called from my mobile No.98156-87644 to Sh. Paramjit Singh, PPS ACP/Detective Jalandhar on their mobile No.98140-86612 at about 06:05 PM and informed about the situation and requested to reach on the spot. After about 15 minutes, he reached on the spot on his govt. vehicle Balero bearing registration No. PB65-BC- 6450 along with his gunman ASI Jagiri Lal No.932 and driver ASI Kulwinder Singh No.971 and he asked the name and

address of the person apprehended by me who disclosed his name as Satnam Singh @ Babbi son of Gurdev Singh resident of village Thadia, PS Sadar Banga, District SBS Nagar. Thereafter, Paramjit Singh PPS ACP/Detective Jalandhar served notice u/s 50 NDPS Act to said Satnam Singh that he is Paramjit Singh PPS and posted as ACP/Detective Jalandhar. He worn the uniform and name plate is affixed thereon and he is having suspicion that some intoxicant substance is there in your white colour Innova car bearing registration No.PB08-BS-2958, so the search of your vehicle Satnam Singh alias Babbi and his vehicle, an have to be conducted but you have legal right that you can get the search of your vehicle from a Magistrate or any other Gazetted Officer. On that he said that he is having full faith upon you and you can conduct the search of his vehicle. Before conducting the search of attempt was made to join the public witness but despite every possible effort no witness could be joined. Thereafter, on the instructions of Sh. Paramjit Singh PPS ACP/Detective Jalandhar, the search of car of Satnam Singh @ Babbi bearing registration No.PB08-BS-2958 was conducted and from the seat adjoining to the driver seat one black colour bag was found and on checking the same 8 packets of Heroin were recovered from the same and out of which 7 packets were packed in cloth and one plastic envelope is inside the same and round stamp was fixed on the cloth and there is BLUE SAPPHIRE- 555 scissor-cross was written and below the scissor cross 2024 is written and 444 is written on cloth and one packet which is packed in cloth and one plastic bag is inside the same and round stamp was affixed on the cloth.SUPERSTAR 888 is written in round stamp. One golden colour currency counting machine, Rs.21 lakh (Twenty Lakh) (4200 currency notes of 500 denomination) recovered from one white colour polythene bag. On weighing the recovered Heroin with the electric weighing machine, the same is found 8 kg from all the 8 packets (1 kg each packet). All the total 8 packet put into separate plastic boxes and prepared case property. All the seven parcels of seven packets of

recovered heroin on which the round stamp was recovered on their cloth and BLUE SAPPHIRE-555 is written on cloth and scissor- cross was also there and 2024 is written under the scissor-cross were marked as A, B, C, D, E, F, G and one another parcel of 1kg of heroine on which round stamp was affixed on the cloth and SUPERSTAR 888 is written in the stamp was marked as H. The recovered money of Rs.21 lakh was put into separate cloth and prepared parcel. The recovered bag also put a into separate cloth and prepared a separate parcel. The recovered money counting machine also put into cloth and prepared a separate parcel. All the case property was marked by me/SI with myseal 'SS'. Sh. Paramjit Singh PPS ACP/DETECTIVE Jalandhar also sealed the same with his seal 'ps'. The sample of the seal has separately prepared. After use, I/SI handed over the seal to SI Jaswinder Singh No.2132. Sh. Paramjit Singh PPS ACP/DETECTIVE Jalandhar kept the seal with him. RC of the Innova car bearing registration No.PB08-BS-2958 on checking the dashboard which is registered on the name of Mangat Ram s/o Pargash Ram r/o Village Cheema Khurd, PS Apra, District Jalandhar. Thereafter, all the case property in which 8 parcels of 1/1 kg of heroin marked as A, B, C, D, E, F, G, H, parcel of drug money of Rs.21 lakh, parcel of money counting machine, parcel of black colour bag, seal of SS/PS and Innova Car bearing registration No.PB08-BS-2958 along with RC taken into police custody vide separate recovery memos and the recovery memos of recovered Heroin, currency of Rs.21 lakh, money counting machine, bag and white colour Innova car bearing registration No. PB08-BS-2958 verified by Sh. Paramjit Singh PPS ACP/Detective Jalandhar. Satnam Singh alias Babbi has committed an offence under section 21-C/61/85 of NDPS Act by keeping 8 kg of Heroin in his possession. On that ruqa has written and sent to the police station through S/CT Surinderpal No.2294 for registration of case. The number of the case be informed after its registration. After issuing the special reports, the same should be sent to the Senior Officers and Illaqa

Magistrate. I/SI is busy on the spot along with the police party. Today in the Byepass, Sukhraj area of Y-Point Bhagat Singh Colony Jalandhar, Singh SI, 07:30 time: No.2141, PM, Sd/- CIA Staff, Commissionerate Jalandhar dated 27.04.2024.'

3. Contentions

On behalf of the petitioner

The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the basis of disclosure statement dated 04.05.2024 suffered by co-accused Hardeep Singh and the petitioner has no connection with the co-accused. It is contended that the petitioner was not named in the FIR, and no recovery has been made from his possession and the alleged drug money does not pertain to the petitioner. Learned counsel for the petitioner undertakes on behalf of the petitioner that he is ready and willing to join the investigation.

On behalf of the State/respondent

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He prays for dismissal of the present petition on the ground that recovery of contraband i.e., 48.5 Kgs has been effected in the present case from co-accused persons alongwith drug money to the tune of Rs.1,05,38,300/-. He further submits that as the quantity recovered is commercial in nature, therefore, the rigours of Section 37 of Act, 1985 would be attracted.

4. Analysis

In the present case the recovery of the contraband i.e., 48 kilograms and 500 grams of heroin has been effected from various accused individuals alongwith drug money of Rs. 1,05,38,300/-. As far as the role of the petitioner is concerned there is no doubt that he has

been named in the disclosure statement of co-accused Hardeep Singh, recorded on 04.05.2024 and on his disclosure, the alleged drug money to the tune of Rs. 44 lakh was recovered from the residence of the petitioner at Amritsar and the FIR reveals that the co-accused Hardeep Singh had been transferring drug money to the petitioner and another individual further the allegations against the petitioner is that he fled from the scene and remained un-apprehended meaning thereby he has actively participated in facilitating the commissioning of the offence.

Drug addiction is a societal scourge that devastates individuals and communities, while drug trafficking has far-reaching consequences that undermine economies and fuel illicit activities, including terrorism. The use of narcotic drugs destroys lives, eroding an individual's humanity and reducing them to a mere shadow of their former self. As the grip of addiction tightens, users sacrifice their dignity, well-being, and ultimately, their very existence. It is the legislature's imperative to mitigate the harmful effects of drugs and substances on society, and to protect citizens from the ravages of addiction and the illicit drug trade.

It's important to remember that while an accused in a murder case may take the life of one or two individuals, those involved in narcotics trafficking are responsible for causing the deaths of numerous innocent young people who are vulnerable to addiction. The harmful effects of drug trafficking have a devastating impact on society, making those involved a significant threat to public safety. Even if released temporarily, it's likely that they will continue their illegal activities, prioritizing profits over human life and perpetuating a

dangerous cycle of addiction and exploitation. In the present prevailing scenario, the drug trafficking, trading and its use has acquired dimensions of an epidemic which not only effects the economic policies of the State but corrupts the system apart from leaving the impact of producing sick society. I will not be shy of saying that anti drug justice is a criminal dimension of social justice as drug addiction forms vitals of the society along-with illicit money generation by drug trafficking.

Given these circumstances, this Court is of the firm view that custodial interrogation of the petitioner is necessary to understand his *modus operandi*. The mere contention that the petitioner is ready and willing to join the investigation does not vest a right for grant anticipatory. The case made out against the petitioner is certainly a relevant ground for denial of anticipatory bail in the case in hand at this stage.

The Hon'ble Supreme ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Live Law (SC) 870*** Court in the case of held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are

satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

More so, investigation is still going on in the present case.

It is settled proposition of law that power exercisable under Section 482 BNSS, 2023 is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in **“State vs. Anil Sharma”; (1997) 7 SCC 187**, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a

favourable 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 material 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 needs 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.”

In light of legal aspects as well as the enunciation discussed hereinabove and the role attributed to the petitioner as well as seriousness of the allegations as also the need to take the investigation to its logical conclusion, the custodial interrogation of the petitioner is certainly required. Therefore, I find no merit in the instant petition, hence, the same is hereby dismissed.

However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the trial Court is free to adjudicate upon the matter in accordance with law.

(SANDEEP MOUDGIL)
JUDGE

23.01.2025
Meenu

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