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

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CRM-M-62171-2024 (O&M)
Date of decision: 30.01.2025

Bijender Singh	...Petitioner
Versus	
State of Haryana	...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. S. K. Garg Narwana, Senior Advocate with
Mr. Vishal Garg Narwana, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition that has been filed by the petitioner for grant of anticipatory bail in case bearing FIR No. 376 dated 22.10.2024, registered under Section 20(b)(ii)C of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'the Act'*) at Police Station Hansi Sadar, District Hansi. The first petition, bearing number CRM-M-58706-2024, was dismissed as withdrawn on 25.11.2024 with liberty to approach the Sessions/Special Court first, as the said petition was directly filed before this Court without availing the said remedy.
2. Brief facts of the case relevant for the disposal of the present petition are that on 22.10.2024, on the basis of a secret information, co-accused Rammehar @ Susha, while coming on a motorcycle bearing registration number HR-86-B-5702, was apprehended by a police party headed

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by ASI Jitender and recovery of 01 kg. and 50 grams of Sulpha/Charas was effected from him. During the course of investigation, the disclosure statement of the above named co-accused was recorded, wherein he disclosed that the recovered contraband was purchased from the present petitioner for a sum of Rs. 40,000/-. The said co-accused also got recovered his mobile phone, which was taken into possession by the police. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Hisar but the same had been dismissed, vide order dated 29.11.2024.

3. Learned senior counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The petitioner has neither been named in the secret information nor in the FIR. There is nothing on record to connect the petitioner with the subject crime. The aforesaid co-accused was arrested on 22.10.2024 but on that date, he did not disclose the name of the petitioner. However, the prosecution is alleging that he suffered a disclosure statement naming the petitioner as the person from whom he had purchased the recovered contraband. Even otherwise, a false recovery had been planted upon the co-accused by showing it to be 01 kg. 50 grams, which is marginally above the commercial quantity of *Charas*, it being 01 kg. Even otherwise, no independent witness was joined by the police and mandatory provisions of the NDPS Act were also not complied with properly. It is further argued that the petitioner is ready to join the investigation. No recovery is to be effected from him. No useful purpose would be served by detaining him into custody. Hence, it is urged that the petition deserves to be allowed and the petitioner deserves to be given the benefit of anticipatory bail.

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4. Status report has been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Haryana has argued that though the petitioner has been nominated in this case on the basis of the disclosure suffered by the co-accused but during the course of investigation, his complicity has been duly established. He stands convicted in one other case under the NDPS Act. Call details record of the petitioner and co-accused were obtained, which demonstrated that the both of them was in the same tower location on 22.10.2024. It is further argued that since a commercial quantity of the contraband has been recovered in this case, the rigors of Section 37 of the NDPS Act would be attracted against the petitioner, especially keeping in view his criminal antecedents. Custodial interrogation of the petitioner is required for thorough investigation in the matter and also for knowing the source of the contraband and for effecting further recovery, if any. It is, therefore, urged 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 has been nominated in this case on the basis of the disclosure made by co-accused Rammehar @ Susha, who was apprehended on the spot and from whom, recovery of 01 kg. and 50 grams of Sulpha/Charas was effected. The petitioner has been nominated in this case on the basis of the disclosure statement suffered by the said co-accused, wherein he disclosed that the recovered contraband was purchased from the present petitioner for a sum of Rs. 40,000/-. The petitioner is shown to have been convicted in another case under the NDPS Act. The quantity of the alleged contraband obviously falls

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under the commercial quantity. As per Section 37 of the NDPS Act, when a person is accused of an offence punishable under [Section 19](#) or 24 or 27-A and also for offences involving commercial quantity, he shall not be released on bail unless the Public Prosecutor has been given an opportunity to oppose the application for such release, and in case a Public Prosecutor opposes the application, the Court must be satisfied that there are reasonable grounds for believing that the person is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. Since the petitioner has criminal antecedents of similar nature and even stands convicted therein, this Court does not find any reason to believe that he is not likely to commit any offence while on bail. More so, nothing has been produced before this Court so as to believe that the petitioner is not guilty of the subject offence. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against the petitioner, disentitling him to grant of bail. So far as the arguments raised by learned senior counsel with regard to lacunas in the investigation are concerned, the same has to be looked into by the learned trial Court after appreciating the entire evidence produced on record before it and not by this Court while deciding a petition for grant of anticipatory bail. Even otherwise, any procedural irregularity or illegality found to have been committed in conducting the search and seizure during the course of investigation or thereafter, would by itself not make the entire evidence collected during the course of investigation, inadmissible. It is required to be seen whether any serious prejudice has been caused to the accused or not. It is well settled proposition of law that the powers under Section 482 of BNSS are to be exercised in extraordinary and sparing circumstances. More so, custodial

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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 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. Therefore, in view of the discussion as made above, this Court is of the considered opinion that in order to carry out thorough investigation in the matter and burst the network of drug trafficking and also for effecting further recovery of contraband, if any, the custodial interrogation of the petitioner is must. Therefore, it is held that the petitioner is not entitled to get benefit of anticipatory bail. Accordingly, 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.

30.01.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No