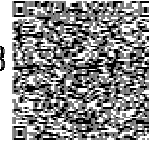


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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

316

CRM-M-62354-2024 (O&M)

Date of decision: 23.01.2025

Sanjay**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Satbir Singh Kanwar, Advocate
for the petitioner.

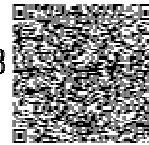
Mr. Rajiv Sidhu, DAG, Haryana.

MANISHA BATRA, J. (Oral)

1. Through the instant petition, filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*), the petitioner seeks grant of anticipatory bail in case arising out of FIR No. 218 dated 05.11.2024, registered under Sections 20 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Lakhan Majra, District Rohtak.
2. Vide order dated 12.12.2024, passed by this Court, the petitioner was released on interim bail and was directed to join investigation. Order dated 12.12.2024, passed by this Court, reads as under:

“...Brief facts of the case are on 05.11.2024, a police party headed by ASI Navrattan Singh Kumar received secret information to the effect that Deepak @ Ankit @ Ganeshi was indulged in selling narcotic drugs and he could be apprehended on conducting an immediate raid. Believing the information to be true, the police party immediately reached at the informed place and apprehended the aforesaid co-accused and recovered 125 grams of opium from his possession. He was arrested at the

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spot. During the course of investigation, he suffered disclosure statement that the petitioner had given him money to bring opium from Uttar Pradesh. On the basis of this disclosure, the petitioner was nominated in this case. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Rohtak but the same had been dismissed, vide order dated 30.11.2024.

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He was not found at the spot and has been involved in this case on the basis of the disclosure statement made by the co-accused, which is not admissible in law against the petitioner. More so, the alleged recovery of the contraband effected from the co-accused does not fall within the ambit of commercial quantity. He is ready to join the investigation. No recovery is to be effected from him. No useful purpose would be served by detaining the petitioner into custody. It is, therefore, urged that the petition deserves to be allowed.

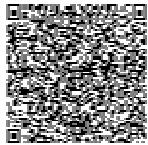
Notice of motion.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana, who is present in Court, accepts notice of the petition on behalf of the respondent-State and seeks some time to file the status report.

List again on 22.01.2025.

Considering the fact that the quantity of the alleged contraband recovered from the co-accused is small and the petitioner is not involved in any other case of similar nature, he is directed to appear before the Investigating/Arresting Officer to join investigation within one week or as and when subsequently required thereafter. In the event of her arrest, the Investigating/Arresting Officer shall release the petitioner on ad-interim bail subject to his/her satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 482(2) of BNSS, 2023.”

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3. Learned State counsel, on the basis of the reply filed today in Court, has submitted that though the petitioner has joined investigation on 18.12.2024 but he has not cooperated in investigation as well as in effecting recovery of the mobile phone.
4. In reply, learned counsel for the petitioner has submitted that the petitioner is not in possession of any mobile phone required in this case and the concession of anticipatory bail cannot be denied to the petitioner on this very ground as the petitioner has duly cooperated in the investigation.
5. Keeping in view the above mentioned facts and circumstances and also in view of the fact that an accused cannot be denied the benefit of pre-arrest bail solely on the ground of non-recovery of certain articles, the present petition is allowed and the order dated 12.12.2024, granting interim bail to the petitioner, is made absolute, subject to the conditions laid down in Section 482(2) of BNSS. However, it is made clear that if required, the petitioner shall join the investigation on being served a written notice in this regard and cooperate with the Investigating Officer.
6. 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.

23.01.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No