

2025:PHHC:002194



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

266

CRM-M-65655-2024 (O&M)
Date of decision: 10.01.2025

Sunil Parmar ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. J. S. Moudgill, Advocate
for the petitioner.

Ms. Swati Batra, Deputy Advocate General, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short* 'BNSS'), is for grant of anticipatory bail to the petitioner in case arising out of FIR No. 67 dated 23.08.2023, registered under Sections 15(c) and 25 of the NDPS Act, 1985 and Section 473 of IPC at Police Station Sadar Budhlada, District Mansa.
2. Brief facts of the case relevant for the disposal of the present petition are that on 23.08.2023, on the basis of suspicion, co-accused Nagesh, Vinod Kumar and Dara Singh, residents of Madhya Pradesh, were apprehended by a police party headed by ASI Amrik Singh, while they were coming on a canter bearing registration number MP-09-GF-2951. On conducting search of the said canter, 2900 kgs. of poppy pods was recovered. All the above named three persons were formally arrested at the spot. No document regarding ownership of the above mentioned vehicle was found inside the same. During the course of investigation, it has been found that the accused persons had tampered with the

2025:PHHC:002194



original engine and registration of the said vehicle. The present petitioner was found to be the owner of the vehicle. Offence under Section 473 of IPC was added accordingly. The petitioner has also been nominated as an accused in this case. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Judge, Special Court, Mansa but the same had been dismissed, vide order dated 17.12.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. In fact, the engine of the aforesaid vehicle was damaged and the petitioner exchanged its old engine with an engine, which was in working condition, for Rs. 20,000/- from R. K. Disposal House & Auto Garage, Indore on 21.10.2022. He was not aware about tampering with the registration number of the vehicle and the same might have been done by the driver and other employees, who have already been arrested by the police. There is nothing on record to connect the petitioner with the commission of subject offences. He is not involved in any other case under the NDPS Act. He 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. Therefore, it is urged that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State. It is submitted therein and learned Deputy Advocate General, Punjab has argued that a huge quantity of the contraband has been recovered in this case from the aforementioned vehicle, which was being driven by co-accused Nagesh and co-accused Vinod Kumar and Dara Singh were sitting in the same. During the course of investigation, the complicity of the petitioner in commission of subject offences has been duly established. After completion of investigation qua

2025:PHHC:002194



aforementioned three co-accused, challan has already been presented but the investigation qua the petitioner is still pending as he is absconding. There are serious allegations against the petitioner. Since a huge quantity of the contraband has been recovered in this case, which obviously falls within the ambit of commercial quantity, the rigors of Section 37 of the NDPS Act would be attracted in this case. It is further submitted that the custodial interrogation of the petitioner is must for proper investigation in the matter as well as for effecting further recovery of contraband, if any. It is, thus, argued 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. As per prosecution, co-accused Nagesh, Vinod Kumar and Dara Singh were apprehended by the police party on 23.08.2023 when they were coming in the aforementioned vehicle. On search of the said vehicle, 2900 kgs. of poppy pods was recovered. The engine and registration number of the vehicle, which was registered in the name of the present petitioner, were found to be tampered with. The allegations against the petitioner are that he was actively involved in the subject crime and it was on his instructions that the recovered contraband was being transported. Investigation qua above named co-accused is already complete and challan has been presented. Trial qua them has commenced and even 04 prosecution witnesses out of total 15 witnesses have been examined so far. Since the petitioner is absconding, the investigation qua him is still pending. The quantity of the contraband recovered from the co-accused is very huge and obviously falls within the commercial quantity. The custodial interrogation of the petitioner is required for proper investigation as well as for

2025:PHHC:002194



effecting recovery of contraband, if any, and for knowing the *modus operandi* of the accused persons. 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 482 of BNSS 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 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. 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.

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.

10.01.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No