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

CRM-M No.66547 of 2025

Date of Decision: 27.11.2025

Sukhwinder Singh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vikas Bishnoi, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present petition has been filed praying for the grant of anticipatory bail to the petitioner in case bearing FIR No.245, dated 01.11.2025, under Section 20 of NDPS Act, 1985 (Sections 20-C and 27-A of NDPS Act added later on during the investigation), registered at Police Station Ding, District Sirsa.

2. Succinctly the facts of the case are that the police party, while on patrolling on 01.11.2025, received a secret information to the effect that Geja was involved in the business of selling Ganja. It was informed that he was standing on Jodha Road NH-9, Sirsa in his vehicle make Asta i20 bearing registration No.HR-20-AG-3438 and in case of raid, he could be arrested along with the contraband. On receiving the secret information, the raiding party was constituted and reached the



place as disclosed in the secret information. A young boy was seen standing with his vehicle. However on suspicion, with the help of police officials, he was apprehended. On asking, he disclosed his name to be Geja. He was suspected to be carrying some contraband in the car and thus, search of the car was conducted. On conducting the search of the car, one plastic bag of white colour was recovered and on conducting the search of the bag, Ganja was recovered, which on weighing, comes out to be 21 Kgs. He failed to produce any licence regarding the conscious possession of the same and thus, the FIR was registered and he was arrested on the spot. On registration of the FIR, the investigation commenced. During the investigation, he made a disclosure statement about the complicity of the petitioner, namely, Sukhwinder Singh, and thus, he was also arrayed as an accused in the present case. Apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, FTSC, Sirsa praying for the grant of anticipatory bail. However, after hearing both the sides and finding no merit in the same, the learned Additional Sessions Judge, FTSC, Sirsa declined the bail application filed by the petitioner vide order dated 18.11.2025. 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 has submitted that neither the petitioner is named in the FIR nor any specific role has been attributed to him, however he has been implicated in the



present case on the basis of second disclosure statement of co-accused, from whom the recovery of 21 Kgs of Ganja has been made. He has submitted that the disclosure statement of co-accused in itself is not even an admissible evidence. He has submitted that there is a violation of mandatory provisions of Section 42 of NDPS Act as the recovery from the co-accused has been made on the basis of secret information. He has also submitted that there is a violation of mandatory provisions of Section 50 of NDPS Act as well in conducting the search of the co-accused. He has further submitted that no recovery has been effected from the petitioner. He has submitted that no prima facie case as alleged is made out against the petitioner and thus, he deserves to be granted anticipatory bail.

4. Notice of motion.

5. Mr. Sumit Jain, Addl. A.G., Haryana, appears and accepts notice on behalf of the respondent-State. He, however, has opposed the submissions made by learned counsel for the petitioner. He has submitted that complicity of the petitioner has been prima facie established during the investigation. He has further submitted that the first disclosure statement made by the co-accused was found to be incorrect and the name of petitioner surfaced in the second disclosure statement of co-accused, wherein it has been mentioned that the petitioner was the seller of the recovered contraband. He has submitted that alleged recovery of 21 Kgs of Ganja effected from the co-accused falls under the category of commercial quantity. He has submitted that the investigation is at the



initial stage and keeping in view the facts and circumstances of the case, no ground for the grant of anticipatory bail to the petitioner is made out and thus the present petition deserves to be dismissed.

6. The Court has heard learned counsel for the parties and perused the record with their able assistance.

7. It is transpired that FIR in the present case has been registered on the basis of secret information regarding the co-accused, namely, Geja, from whom the recovery of 21 Kgs of Ganja has been effected. During the investigation, the disclosure statement was made by the co-accused, namely, Geja regarding the involvement of the petitioner. The recovery effected from the co-accused is a heavy quantity and as submitted by the learned State counsel, the same is a commercial quantity.

8. 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."*

9. 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."

10. 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.”

11. 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.

12. 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’.*

13. 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. Needless to say, the investigation is at threshold 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.

14. 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.

27.11.2025

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

(RAJESH BHARDWAJ)
JUDGE