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

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Kabal Singh

...Petitioner

V/s

State of Punjab

...Respondent

Date of decision: 24.12.2025**Date of Uploading : 24.12.2025****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Simranjeet Singh Sarwara, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed on behalf of the petitioner seeking grant of anticipatory/pre-arrest bail under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'BNSS') in FIR No.133 dated 12.12.2025 registered for offences punishable under Section 18 of the NDPS Act at Police Station Sadar Rajpura, District Patiala.

2. The prosecution case, as emerging from the record, is that on 12.12.2025, the police party of Special Cell, Rajpura, while on routine patrolling duty near Rajpura – Sirhind Road at village Uplaheri, received specific and credible secret information that the co-accused Davinder Singh was transporting a heavy quantity of opium in Canter bearing registration No. PB-10-FV-4197. Acting promptly on the said information and after reducing the same into writing and forwarding it to the superior officers in

compliance with Section 42 of the NDPS Act, the police apprehended the

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co-accused and effected recovery of 10 kilograms of opium from the said vehicle, which is a commercial quantity. Consequently, the present FIR came to be registered and investigation was set into motion. During the course of investigation, the involvement of the present petitioner surfaced. The petitioner is the registered owner of the vehicle used for transportation of the contraband. The co-accused, during interrogation, disclosed that he was transporting the recovered opium at the instance and instructions of the petitioner. The investigation further revealed that the petitioner was fully aware of its use for illegal transportation of narcotic substances. The petitioner was thus found to be an integral part of the chain of illicit trafficking.

3. Learned counsel for the petitioner has iterated that the petitioner has been falsely implicated in to the FIR in question. Learned counsel has further iterated that the FIR was registered on the basis of alleged secret information that the co-accused was transporting opium in a canter bearing registration No. PB-10-FV-4197 and acting on the said information, the police allegedly apprehended the co-accused and recovered 10 kilograms of opium from the said vehicle, leading to registration of the present FIR. Learned counsel has further submitted that the present FIR is a sheer abuse of the process of law and has been lodged in a mechanical and arbitrary manner. A bare perusal of the FIR would show that the petitioner is not named therein and the entire allegations are confined only to the co-accused. According to learned counsel, the subsequent implication of the petitioner, without any independent corroborative material renders the prosecution story highly doubtful. Learned counsel has emphasized that the

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petitioner has been implicated solely on the basis of a disclosure statement allegedly made by the co-accused. No recovery whatsoever has been effected from the petitioner pursuant to such disclosure nor is there any independent material on record linking the petitioner with the alleged offence. Learned counsel has further submitted that the petitioner has never visited Jharkhand and, therefore, the alleged disclosure statement is false on the face of it. Learned counsel has pointed out that the co-accused was merely engaged as a driver by the petitioner for the last about two years and his salary was paid through bank account transactions, which does not establish any criminal involvement. Learned counsel has further contended that the prosecution case against the petitioner rests mainly on the fact that he is the registered owner of the vehicle in question. Mere ownership of a vehicle, by itself, does not establish conscious possession of contraband under the NDPS Act. Furthermore, there is no allegation that the petitioner was present at the spot, driving the vehicle or has any knowledge or control over the alleged contraband. In the absence of such allegations, the essential ingredient of conscious possession is not made out against the petitioner. Learned counsel further asserts that nothing has been recovered from the possession of the petitioner and no further recovery is likely to be effected at his instance and thus, his custodial interrogation is neither warranted nor justified. Learned counsel further asserts that the petitioner has no intention of evading the process of law and undertakes to cooperate fully with the investigation. It is next submitted by the learned counsel that the petitioner is ready to join the investigation and hence no useful purpose would be



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served by sending him behind bars. On the basis of the aforementioned submissions, the grant of the instant petition is entreated for.

4. *Per contra*, learned State counsel has opposed the grant of anticipatory bail to the petitioner by arguing that the present case pertains to recovery of a commercial quantity of opium i.e. 10 kilograms thereby attracting the stringent provisions of the NDPS Act. Learned State counsel has further iterated that the offences under the NDPS Act are grave in nature and have serious adverse impact on society at large. Learned State counsel has further submitted that the FIR was registered strictly in accordance with law on the basis of credible secret information and during the course of investigation, the involvement of the present petitioner clearly surfaced. Furthermore, the co-accused, during interrogation, disclosed that he was transporting the contraband at the instance and instructions of the petitioner, who is the registered owner of the vehicle used for carrying the opium which establishes his complicity in the offence. Learned State counsel has further submitted that the implication of the petitioner is not based merely on ownership of the vehicle but on material collected during investigation, including the disclosure statement of the co-accused and surrounding circumstances, which point towards a criminal conspiracy and active involvement of the petitioner. Learned State counsel has further submitted that the rigours of Section 37 of the NDPS Act squarely apply in the present case as the recovery is of commercial quantity. The custodial interrogation of the petitioner is necessary to unearth the larger nexus, source of procurement of contraband, financial transactions and involvement of other persons in the drug trafficking network. Grant of anticipatory bail at this



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stage would seriously prejudice the investigation and hamper effective prosecution. On the strength of these submissions, the dismissal of the instant petition is prayed for.

5. I have heard the learned counsel for the rival parties and have gone through the available record of the case.

6. As per the case put forth in the FIR in question, indubitably, serious allegations have been levelled against the petitioner. Upon thoughtful consideration of the material placed on record, this Court finds that the prosecution version, at this stage, cannot be said to be inherently improbable or lacking in substance. The recovery of 10 kgs of opium which squarely falls within the category of commercial quantity lends considerable weight to the prosecution case and attracts the statutory rigours of the NDPS Act. The seriousness of the offence and the manner in which the contraband was allegedly transported indicate a well-planned activity. During the course of investigation, co-accused made a disclosure statement wherein he disclosed that the recovered opium had been supplied as per the instructions of the present petitioner. At this stage, the alleged involvement of the petitioner founded principally on the disclosure statements of co-accused coupled with corroborative documentary evidence collected by the investigating agency during the course of investigation to substantiate the case of the prosecution. In the considered opinion of this Court, the involvement of the petitioner has not been alleged in a mechanical manner. The investigation *prima facie* suggest that the vehicle used for transporting the contraband was owned by the petitioner and was allegedly used for illegal purpose with his knowledge and consent. The disclosure statement

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made by the co-accused cannot be brushed aside altogether at the stage of anticipatory bail particularly when it forms part of a chain of circumstances being investigated by the prosecution. The arguments raised by the petitioner that no recovery has been effected from him does not, by itself, create a ground for grant of anticipatory bail. In offences under the NDPS Act, especially those involving commercial quantity, the role of persons exercising control over the means of transport is equally significant. Thus, the contention that the petitioner has been implicated solely on the basis of an inadmissible disclosure does not merit acceptance. The concept of conscious possession cannot be narrowly construed to mean only physical custody and the same is a matter of evidence to be assessed during the course of trial.

7. The role of the present petitioner is not that of a mere consumer but that of an active supplier of contraband. The petitioner has been implicated for the commission of offences punishable under the NDPS Act with specific allegations of facilitating illicit trafficking of contraband substances. Furthermore, as per the prosecution, the petitioner played a pivotal role in the supply chain, having allegedly supplied the contraband to co-accused which led to the recovery of the contraband in question. The investigation so far indicates the involvement of the petitioner in a well-organized network, engaged in the illegal distribution of psychotropic substances. The nature and gravity of the offence, coupled with the evidentiary material on record, justify further custodial interrogation to unravel the larger conspiracy and identify the other potential co-conspirators. Furthermore, Section 37 of the NDPS Act creates a clear

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embargo and unless the Court records a satisfaction, based on reasonable grounds, that the accused is not guilty.

8. The nature of the allegations, coupled with the possibility of the petitioner being part of a larger nexus engaged in the unlawful trade of narcotic substances, raises serious concerns that cannot be brushed aside at this nascent stage of the investigation. The apprehension expressed by the prosecution that the petitioner, if released on bail, may abscond or attempt to influence witnesses who may be vulnerable to coercion does not appear to be without merit. Given the seriousness of the offence, the stage of investigation, the possibility of tampering with evidence or obstructing justice, and the overarching public interest in deterring the menace of narcotic drug trafficking, this Court is of the view that the petitioner does not merit the concession of bail at this juncture. Further, in light of the serious allegations, the custodial interrogation of the petitioner may be indispensable and crucial for unearthing the broader conspiracy and identifying other potential accomplices, information which may be within the exclusive knowledge of the petitioner. The grant of anticipatory bail at this premature stage may seriously prejudice the ongoing investigation and potentially result in tampering with evidence or influencing material witnesses.

9. It is befitting to mention here that while considering a plea for grant of anticipatory bail, the Court has to equilibrate between safeguarding individual rights and protecting societal interest(s). The Court ought to reckon with the magnitude and nature of the offence; the role attributed to the accused; the need for fair and free investigation as also for reaching



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impact of such alleged iniquities on society. A profitable reference in this regard is being made to the dicta passed by the Hon'ble Supreme Court titled as ***State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039***], the Supreme Court held as under, relevant whereof reads as under:

“6. We find force in the submission of CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well-ensconced 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 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.”

At this stage, there is no material on record to hold that *prima facie* case is not made out against the petitioner. The material which has come on record and preliminary investigation, appear to establish a reasonable basis for the accusation of the petitioner. Thus, it is not appropriate to grant anticipatory bail to the petitioner, as it would necessarily cause impediment in effective investigation.

10. Accordingly, this Court is of the considered opinion that the petitioner does not deserve the concession of anticipatory bail in the factual *milieu* of the case in hand. Moreover, custodial interrogation of the petitioner may be necessary for an effective investigation & to unravel the truth.



11. In view of the prevenient ratiocination, it is ordained thus:
- (i) The petition in hand is devoid of merits and is hereby dismissed.
 - (ii) Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.
 - (iii) Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

December 24, 2025
Ajay

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