



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

CRM-M-20749-2026

Date of decision: 29.04.2026

Soni

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Kanishk Swaroop, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

RAJESH BHARDWAJ, J.

1. Prayer in the present petition is for grant of anticipatory bail to the petitioner in case FIR No.200 dated 24.09.2025, under Sections 20, 27 of NDPS Act and under Section 25 of the Arms Act, registered at Police Station Bhattu Kalan, District Fatehabad.

2. Succinctly, facts of the case are that on 24.09.2025, police received a secret information that Rakesh @ Raka and Vikram were involved in the business of selling ganja and they have brought a large quantity of ganja for selling and the same is kept at the house of Rakesh @ Raka, who has also kept illegal arms with him. It was informed that Rakesh @ Raka from his house in his i20 Car bearing registration No.HR 26 BN 0539 would carry heavy quantity of ganja for selling and if raid is conducted at his house then he could be arrested along with the contraband. On receiving the secret information, the police going towards the disclosed place. The i20 Car bearing No.HR 26 BN 0539 as disclosed in the secret information was seen coming. The Car was stopped and on asking, the person who was driving the car, disclosed his name as Rakesh



@ Raka and inside the car on conductor seat, one plastic sack of white colour was seen kept which was suspected to be containing some intoxicating substance thus, he was given an offer to search and thereafter, the search was conducted. During the search, from the right pocket of his capri, 01 illegal pistol .32 bore with two live cartridges .32 bore were recovered. From the search of the plastic sack lying on the conductor seat, ganja was recovered and on weighing, the same was found to be 21 kg 130 grams of ganja. He failed to produce any license regarding the possession of the same. Thus, the FIR was registered and the petitioner was arrested on the spot. The investigation commenced. During investigation, name of the petitioner surfaced in the disclosure statement of co-accused. Apprehending arrest, petitioner approached the Court of learned Special Judge, Fast Track under the NDPS Act, Fatehabad praying for grant of anticipatory bail. However, after hearing counsel for both the sides, the same was declined vide order dated 07.04.2026. Hence, being aggrieved, petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the present case. He has submitted that the petitioner has not been named in the FIR, however, he has been arrayed as an accused in the present case on the basis of disclosure statement of co-accused, which is not even an admissible evidence. It is submitted that the recovery of alleged contraband was effected from the public place, however, no independent witness has been joined hence, mandatory provisions of Section 42 of the NDPS Act has not been complied with. It is also submitted that there is also violation of Section 50 of the NDPS Act. It is submitted that in the overall facts and



circumstances of the present case, petitioner deserves to be granted bail.

4. Learned State counsel has however, vehemently opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner is actively involved in the commission of alleged offence as he is the professional dealer of arms and several other cases have been registered against him under the provisions of Arms Act and thus, his custodial interrogation is essential in the present case to unearth the truth and also to nab other persons involved in the illegal drug trade. He has submitted that the anticipatory bail of the co-accused has already been dismissed on 27.03.2026. He thus, has submitted that the petitioner does not deserve the relief of anticipatory bail.

5. After hearing counsel for the parties and perusing the record, it is apparent that although the name of the petitioner surfaced on the basis of disclosure statement, the allegations levelled against him are serious in nature as he is involved in a heinous crime of illegal drug trade and dealing of arms and ammunition. Further, the alleged recovered contraband of 21 kg 130 grams of ganja is commercial in nature as well as considering the substantial recovery of arms from the possession of the co-accused indicates the gravity of the offence and strong link with the petitioner as the same have been purchased from the petitioner. Admittedly, petitioner is involved in other 07 cases. In the facts and circumstances of the case, the complicity of the petitioner is *prima facie* established.

6. For the consideration of anticipatory bail, the statutory parameters are given under Section 482(2) of Bharatiya Nagarik Suraksha Sanhita, 2023 which reads as under:-



“Direction for grant of bail to person apprehending arrest:-

Where 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.

When the High Court or the Court of Sessions 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.*

7. As per 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 also 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

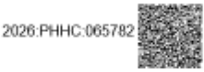


as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

8. 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.

9. 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.

10. 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. Allegations made against the petitioner are serious in nature. Needless to say, the investigation is at the initial stage 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.

11. 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.

29.04.2026
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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