



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

**CRM-M No.23626 of 2026
Date of Decision: 07.05.2026**

Surinder Singh Matharu @ Surinder Singh Petitioner

Versus

State of PunjabRespondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Deepak Aggarwal, Advocate
for the petitioner.

Mr. K.D. Sachdeva, D.A.G., Punjab.

RAJESH BHARDWAJ, J.

1. Present petition has been filed praying for the grant of anticipatory bail to the petitioner in case bearing FIR No.61, dated 16.03.2026, under Sections 21(C) and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Kotwali, District Bathinda.

2. Succinctly the facts of the case are that the police party while on patrolling on 16.03.2026, when reached near Mahavir Dal Eye Hospital, saw a young boy holding a transparent polythene bag in his hand, who on seeing the police party got perplexed and tried to escape, however, he was apprehended by the police party. On asking, he disclosed his name to be Jashan S/o Swaran Singh. He was suspected to be carrying some contraband in the polythene bag he was holding and since it was transparent, substances like heroin could be seen clearly in



the same. Thus, he was given an offer of search. On conducting the search, 400 grams of heroin was recovered from his possession. He failed to produce any licence regarding possession of the same and thus, the FIR was registered and he was arrested on spot. Investigation commenced. During investigation, complicity of the petitioner surfaced on the basis of disclosure statement of co-accused, Jashan and thus, he was also arrayed as an accused in the present case. Apprehending arrest, the petitioner approached the Court of learned Judge, Special Court, Bathinda praying for the grant of anticipatory bail. However, after hearing both the sides, finding no merit in the same, learned Judge, Special Court, Bathinda, dismissed the petition filed by the petitioner vide his order dated 09.04.2026. 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 contended that the petitioner has been falsely and frivolously implicated in the present case. He submits that neither the petitioner is named in the FIR nor any recovery has been effected from him. He submits that the petitioner has been implicated in the present case on the basis of disclosure statement of co-accused, Jashan, which is not even an admissible evidence, thus, there being no *prima facie* having been made out against the present petitioner, he deserves to be granted anticipatory bail.

4. Learned State counsel has opposed the submission made by counsel for the petitioner and has submitted that the petitioner has been



specifically named in the disclosure statement of co-accused, Jashan, from whom recovery of 400 grams of heroin was effected and the said contraband was to be delivered to the present petitioner. He submits that the recovered contraband from co-accused is a commercial quantity and thus, provisions of Section 37 of NDPS Act, are attracted in the present case. He submits that the petitioner is a habitual offender who is involved in 08 other cases of the similar nature and thus, his custodial interrogation is very much essential. He submits that the investigation is at initial stage, thus, no case for the grant of anticipatory bail to the petitioner is made out and the present petition being devoid of merit deserves to be dismissed.

5. On hearing of the counsel for the parties and perusing the record, it is deciphered that recovery of 400 grams of heroin which was effected from co-accused, falls under the category of commercial quantity and thus, provisions of Section 37 of NDPS Act, are attracted. During investigation, the disclosure statement of co-accused Jashan was recorded wherein, he disclosed that recovered contraband was to be delivered to the present petitioner. Petitioner is a habitual offender as there are 08 more cases of similar nature i.e. under the NDPS Act, in which the petitioner is facing prosecution, out of which in 02 cases he has been convicted and on the basis of same, his complicity further strengthens. To unearth the supply chain of illicit drug trade, the custodial interrogation of the petitioner is required. Needless to say that the investigation is at initial stage.



6. 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.”*

7. 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.”

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. 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.

07.05.2026

ps-I

(RAJESH BHARDWAJ)
JUDGE

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