

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

2025:PHHC:098854



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CRM-M-34446-2025

Date of decision: 04.08.2025

Satyender Kumar Yadav

...Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Tejas Bansal, Advocate for the petitioner.

Mr. Tarun Aggarwal, Addl.AG, Haryana.

SUMEET GOEL, J.

1. Present petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'the BNSS') seeking grant of anticipatory bail to the petitioner in case bearing FIR No.30 dated 22.01.2024, registered for the offences punishable under Sections 17C, 61 & 85 of NDPS Act at Police Station Civil Lines Sirsa, District Sirsa.

2. The gravamen of the allegations against the petitioner pertains to recovery of 2.530 Kgs opium from the co-accused of the petitioner namely Ashok Yadav on 22.01.2024 and he has disclosed the name of the petitioner (herein) that he has purchased the same from the petitioner.

3. Learned counsel for the petitioner has iterated that the petitioner is innocent and has been falsely implicated in the present case. Learned counsel has further iterated that the name of the petitioner is not mentioned in the FIR. He has further argued that the petitioner is sought to be implicated on the basis of disclosure statement made by co-accused Ashok Yadav, which is not admissible. Learned counsel has further iterated that the petitioner has neither ever acted with any criminal intent nor committed any offence as alleged. Lastly, it has been further argued that

there is no need for custodial interrogation of the petitioner, as nothing incriminating remains to be recovered from him. Moreover, there is no likelihood of the petitioner absconding from the process of justice or tampering with the prosecution evidence in case he is enlarged on pre-arrest bail. On strength of these submissions, the grant of anticipatory bail is entreated for.

4. Conversely, learned State counsel has opposed the grant of anticipatory bail to the petitioner by arguing that the offence committed by the petitioner is serious in nature. According to learned State counsel, allegations levelled against the petitioner are of grave and serious nature, involving recovery of 2.530 Kg of opium. Furthermore, in case the petitioner is granted the concession of pre-arrest bail, at this stage, it may impede the ongoing investigation and potentially lead to tampering with evidence or influencing of witnesses. Accordingly, a prayer has been made for the dismissal of the instant petition in order to facilitate effective investigation into the alleged offence.

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, as he has been named by co-accused Ashok Yadav, who had alleged that he had purchased the contraband from the petitioner. He has further contended that in light of the seriousness of the allegations, the custodial interrogation of the petitioner is imperative for a fair and thorough investigation. He has further emphasized that releasing the petitioner on bail at this crucial stage may hamper the ongoing investigation and potentially lead to tampering with evidence or influencing of witnesses. Accordingly, a prayer has been made

for the dismissal of the instant petition in order to facilitate effective investigation into the alleged offence.

7. From the perusal of the status report filed on behalf of the State, it reveals that after dismissal of the bail petition by the Sessions Court on 26.07.2024, the police have been continuously making efforts to apprehend the petitioner. The police have also targeted raids at different locations including his native village and also at possible hideouts and other premises within and outside the jurisdiction. In the said status report, it has also been mentioned that despite these efforts the petitioner has managed to evade arrest. The local intelligence network has also been activated and maintained to tract the movements and possible whereabouts of the petitioner and, thus, the conduct of the accused is non-cooperative & nearing contumacious disregard of process of law.

7.1. Furthermore, the investigating agency has sought the custodial interrogation of the petitioner for effective recovery, verification of facts, and to establish the broader conspiracy, if any, behind the occurrence. No cause *nay* plausible cause has been shown, at this stage, from which it can be deciphered that the petitioner has been falsely implicated into the present FIR.

8. 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 interests. 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 the deeper and wide impact of such alleged iniquities on the society. 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 accusations. Thus, it is not appropriate to grant anticipatory bail to the petitioner, as it would necessarily cause impediment in effective investigation. In *State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039*, the Hon'ble Supreme Court held as under : (SCC p. 189, para 6)

“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.”

9. There is yet another *nay* seminal aspect of the matter which craves attention of this Court.

9.1. This Court finds it incumbent to address a facet of profound jurisprudential significance concerning applications for anticipatory bail under Section 482 of BNSS (erstwhile Section 438 of Cr.P.C., 1973). Anticipatory bail, fundamentally an extraordinary discretionary remedy, stands as a Constitutional safeguard of personal liberty, principally designed to shield a law-abiding individual from the ignominy of pre-trial arrest. It is a beneficial provision — intended to preserve freedom from genuine apprehension of unwarranted restraint — not to offer sanctuary to those who demonstrate a cavalier disregard for the investigative process or judicial fiat. While the legislative framework remains silent on a rigid timeline for

invoking the extraordinary discretionary jurisdiction—an inordinate and inexplicated delay in invoking the same—inevitably invites meticulous scrutiny. Such a *hiatus*, bereft of compelling justification, frequently transmutes into an implied acknowledgment of accused-applicant's deliberate evasion of the law's embrace, bordering on an act of abscondence. To extend the protective umbrella of this equitable relief to an accused who, by his own volition, has elected to protract his submission to legal machinery, would not only pervert the salutary object of Section 482 of the BNSS but would also, in essence, condone and tacitly legitimate a brazen defiance of the process of law. Such inexplicable tardiness, shrouded in ambiguity, will inevitably compel the Court to exercise its discretion judiciously and, in all likelihood, decline to extend the extraordinary indulgence of Anticipatory Bail to an individual whose conduct reflects a discernible want of diligence or strategic recalcitrance in facing the investigative process. The portals of justice are open to all, but they are not a refuge for those who seek to manipulate its timelines for ulterior motives. As the venerable legal maxim goes *Jus Ex Injuria Non Oritur*—a right or the protection of law cannot arise from a wrong.

9.2. While this Court remains cognizant of peculiar circumstances, where, for instance, an individual's implication might surface belatedly or due to an innocent oversight, thereby occasioning a *bona fide* delay in seeking judicial reprieve, such instances constitute the exception, not the norm. However, in cases where an accused-applicant has consciously subjected himself to the Sessions Court jurisdiction, and thereafter exhibits a protracted and un-elucidated delay in approaching this Court, after the refusal of relief by the Sessions Court, the evidential burden axiomatically shifts towards the accused-applicant to furnish a lucid, credible and

compelling explanation for such tardiness — failing which may disentitle such an accused-applicant for the relief.

9.3. The factual milieu of the case in hand reflects that the FIR in question was registered on 22.01.2024, the petitioner (herein) had filed the anticipatory bail plea before the Sessions Court in July, 2024 which came to be dismissed by the concerned Sessions Court on 26.07.2024. The petition in hand has been filed before this Court on or around 03.07.2025. There is no explanation much less cogent and convincing explanation put forth by the petitioner regarding this *hiatus* of about one year. *Ergo*; the petition in hand deserves to be dismissed on this score as well, apart from merits thereof.

10. In view of the gravity of the allegations, the specific role attributed to the petitioner and the necessity of custodial interrogation for a fair and thorough investigation, this Court is of the considered opinion that the petitioner does not deserve the concession of anticipatory bail in the factual matrix of the case in hand. Moreover, custodial interrogation of the petitioner is necessary for an effective investigation & to unravel the truth. The petition is, thus, devoid of merits and is hereby dismissed.

11. Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.

12. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

August 04, 2025

Naveen

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No