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2025:PHHC:029088



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

**CRM-M-11505-2025
DECIDED ON: 01.03.2025**

RANJEET SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vikram Jeet Singh, Advocate
for the petitioner.

Mr. Chetan Sharma, DAG Haryana

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

This is a Petition under Section 482 of BNSs for grant of anticipatory bail to the petitioner in case FIR No. 371 dated 21.11.2023, registered under Sections 15(C), 18(C), 27A and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 201 of IPC (Annexure P-1)

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Ruqa is as under. To the SHO PS Sadar, Kaithal, Jai Hind, It is requested that today on 21.11.2023, I along with SI Ranjit Singh No.105/KTL, ASI Parveen Kumar No.43/KTL, HC Rajeev Kumar No.279/KTL, HC Jasmer Singh No.469/KTL and EHC Lakhwinder Singh No.420/KTL were present at village Geong-

village Kathwarh turn point Hisar to Chandigarh By-pass road, Kaithal in connection w.r.t. stop the crime on Govt. vehicle bearing No.HR-08GV-5926 driven by EHC Balinder Singh No.961/KTL, a special informer came on motorcycle from Titram side and gave me secret information that Palvinder • Singh-alias Goldi S/o Shamsher Singh R/o village Mandwal, who is a truck driver, and is doing the business of selling the intoxicant substance i.e. poppy husk and opium in his truck, who has made drug addict the young boys of nearby areas, due to which, the young boys are committing theft and other crimes for fulfillment of their lust for drugs. The above mentioned Palvinder Singh alias Goldi is about to come from Narwana side in his container bearing No.RJ-14GN-3419 having poppy husk and opium from some outside place for selling the same in village Mandwal and nearby areas, if a Naka be laid down at this place and the suspected vehicles be checked, the above mentioned Palvinder Singh alias Goldi can be apprehended along with poppy husk and opium. As the information has been given by a believable person, a notice u/s 42 of NDPS Act was prepared at 2:15 a.m. and the same is sent to you the S.H.O. P.S. Sadar, Kaithal through EHC Balinder Singh No.961/KTL. The secret informer went from the spot, after giving the information. Thereafter, I disclosed wnt the secret information to the other police officials and prepared a aiding party and started baricating at turn point of village Geong-Kathwarh on Hisar-Chandigarh By-pass road, Kaithal and I sent S.i. Ranjit Singh to call Karamvir Singh, Sarpanch of village Geong at the spot. After checking 4-5 trucks, who were coming from Titram side, as per the secret information, at about 2:45 a.m., we saw one container coming towards us from Narwana side, to whom I along with other police officials while barigating, signaled him with the light of torch to stop the vehicle, the driver of the vehicle stopped all of a sudden and alighted from the vehicle and tried to ran away, I along with other police officials apprehended him and on asking, he told his name as

Palvinder Singh alias Goldi S/o Shamsheer Singh R/o village Mandwal, P.S. Rajound, District Kaithal. On checking the vehicle is found to be bearing No.RJ-14GN-3419, make Ashoka Lyland as per the secret information. Then I told Palvinder Singh alias Goldi that I have suspicion that you are having some intoxicant substance i.e, poppy husk and opium with you and in your vehicle and you have a legal right to get conduct the search of yourself and your vehicle from any Magistrate or gazetted officer. I prepared notice u/s 50 of NDPS Act separately, upon which, suspected Palvinder Singh alias Goldi and witnesses signed on the same. After thinking for some time, he expressed his consent to get conducted the search of himself and his vehicle from some Magistrate. I prepared consent memo u/s 50 of NDPS Act, upon which Palvinder Singh alias Goldi and witnesses had signed. On 3.19 a.m., I called from my mobile No.70155-45006 to Sh. Ashish Kumar, Naib Tehsildar, Kaithal on his mobile No.7988917708 and after explaining the facts, requested him to come on the spot. At about 3.25 a.m., EHC Balinder Singh came back at the spot, after giving the notice u/s 42 of NDPS Act to SHO, P.S. Sadar, Kaithal. At about 3.35 a.m., ShAshish Kumar, Naib Tehsildar, Kaithal came at the spot in his private vehicle bearing No.HR-08Gv-2222, while driving the same on his own. During this, A.S.I. Ranjeet Singh came back and told that Sarpanch Karamvir Singh S/o Balwan r/o village Geong has not met at his house as he has gone out of station due to some personal work. Sh.Ashish Kumar, Naib Tehsildar, Kaithal enquired from the suspected Palvinder Singh alias Goldi and witnesses along with me. As per the directions of ShAshish Kumar, Naib Tehsildar, Kaithal, I got conducted my search from ASI Parveen Kumar and no suspected thing was recovered from me apart from the mandatory items. I prepared my personal search memo, upon which, the witnesses had appended their signatures. Sh.Ashish Kumar, Naib Tehsildar, Kaithal attested the memo and make 'SEEN' the notice u/s 50 of NDPS Act. In the meantime, Satish S/o Phool Chand R/o Geong,

driver of Pick-up came from village Geong side and Birbal S/o Ram Niwas along with Sahil S/o Birbal r/o village Dhons came on motorcycle bearing No.HR-091-1602 from village Dhons side, to whom I disclosed the facts and asked them to become the witnesses, but they told their genuine difficulties and went away from the spot. Then as per the directions of Sh. Ashish Kumar, Naib Tehsildar, Kaithal, during the search of truck container bearing No.RJ-14GN-3419, Lyland, red colour, used by above mentioned Palvinder Singh alias Goldi, I opened four bulb type bolts on the roof in the cabin and i found a black coloured substance in a black coloured polythene bag and on checking, I found the opium i.e. intoxicant substance restricted by the Government. On weighing with the electronic weighing machine, the same is found 500 grams along with the polythene bag. I put the same in a plastic box and prepared a parcel of opium and served the same with my seal PK/2' and prepared sample seal separately as 'PK/1'. After use, I handed over my seal to HC Rajeev Kumar. Thereafter, driver Palvinder took out his driving licence from dashboard of the truck, which is in the name of Palvinder and the same is issued by RTA, Kaithal, valid upto 14.07.2029, photocopy of RC No.RJ- 14GN-3419, truck make Ashoka Lyland, upon which, the chassis No.MB1A5EHD6MADL6189 and engine No.MHP/110497 has been written. This RC is in the name of above mentioned Palvinder Singh and the same has been issued by RC DTO, lagatpura authority and registration date is 10.11.2021 Form 47, Form RS 5.16, 3 pages, paper of billity i.e. Globe Eco Logistic Pvt. Ltd., State Maharashtra, GST No.27 AAACG3938JIZG bearing No.167316, dated 17.11.2023, upon which it has been written (From Rajasthan to Chandigarh, Consigner, Name MSK Flex India Pvt. Ltd., F19TP 2427 MJDC, Ranjangaon, vill. Koregaon The Shirur Pune, MH, consignee name M/s Delta Enterprises, Plot No.72, Makhan Majra, Chandigarh, packages 243 Micro Cellular, 15 rubber etc, upon which, the vehicle

No.RJ-14GN-3419, invoice No.232401881, dated 17.11.2023 and Mob. No.98150-91513, 97802-48378 etc has been written two pages and 14 paegs of taxes invoice K Flex, 1 page of e-Way bill. The number of above mentioned vehicle is mentioned on some of the documents. Thereafter, I checked body of the truck with the help of other police officials and found packing of cardboard and packing of plastic polythene as per the billity foam, rubber etc. On the packing of cardboard, K Flex EC has been written. We also found black coloured heavy bags with the packing of foam and on checking, after opening the same, I found Doda Post in 24 bags and poppy husk in 34 bags. On weighing with the electronic weighing machine, every bag was found 20-20 kg, out of above mentioned 24 bags of Doda Post and therefore, total 480 Kg of Doda post was recovered. Then, on weighing with the electronic weighing machine, every bag was found 30-30 kg, out of above mentioned 34 bags of Poppy husk and therefore, total 1020 Kg of poppy husk was recovered. Then we marked A1 to A24 the plastic bags of Doda Post and B1 to B34 to bags of the poppy husk. Then I prepared parcels of bags of Doda Post and Poppy husk recovered from the possession of above mentioned Palvinder Singh alias Goldi and served with my seal 'PK/2', after taking the same from HC Rajeev Kumar and prepared sample seal separately of all the parcels and then served every sample seal with my seal PK/1'. After use, I handed over the seal to HC Rajeev Kumar. Thereafter, ShAshish Kumar, Naib Tehsildar, Kaithal served with his seal on one parcel of opium, 24 parcels of Doda Post, 34 parcels of poppy husk and sample seal of opium, Doda Post and 59 sample seal of poppy husk. After use, Sh. Ashish Kumar, Naib Tehsildar, Kaithal has kept his seal with him and he attested all the parcels and sample seals. Thereafter, parcel of opium, Doda Post, Chura Post, sample seals and above mentioned truck along with 24 pages as evidence were taken into police custody through recovery memo. I prepared recovery memo. The accused and witnesses signed on the same and

ShAshish Kumar, Naib Tehsildar, Kaithal attested the same. After giving me proper directions, ShAshish Kumar, Naib Tehsildar, Kaithal went away from the spot at 8:15 a.m. in his vehicle. As accused Palvinder Singh alias Goldi has committed offences u/s 18(C) of NDPS Act by keeping intoxicant substance of 500 grams of opium and u/s 15(C) of NDPS Act by keeping intoxicant substance of 480 kg of Doda Post and 1020 KG poppy husk, total 1500 kg (15 quintals), therefore, a ruqa is written and sent to the police station sadar, Kaithal through EHC Balinder Singh No.961/KTL. After registration of a case, number of the same may kindly be informed to me. Special reports may kindly be sent to the higher police officials through proper channel. Another investigation officer may kindly be sent at the spot for further investigation. I along with other police officials and accused Palvinder Singh alias Goldi along with case property is present at the spot. Sd/- ASI Pardeen Kumar, No.56/KL, Special Detective Unit, Kaithal, dated 21.11.2023 at 8.25 a.m.-x-x-x-x-x-x-x-x”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case based solely on the disclosure statement of the co-accused, namely Palwinder Singh @ Goldi. Counsel asserts that the contraband was not recovered from the conscious possession of the petitioner and that there is no evidence, such as call details or any form of communication, between the petitioner and the co-accused. The petitioner, through his counsel, undertakes before this Court that he is ready and willing to cooperate with the investigation and join the same as required.

On behalf of the respondent/State

Learned State counsel appearing on advance notice prays for dismissal of the present petition stating that the petitioner used to purchase

narcotics substances from co-accused Palwinder Singh and he has given Rs.50,000/- to co-accused for purchase of 20 kg poppy husk out of total 1500 Kg poppy husk, therefore, custodial interrogation of the petitioner is required.

4. Analysis

Before delving into the merits of the case, it is apposite to discuss Section 29 of the NDPS Act which is reproduced herein below:-

29. Punishment for abetment and criminal conspiracy- (1) Whoever abets, or is a party to a criminal conspiracy to commit an offence punishable under this Chapter, shall, whether such offence be or be not committed in consequence of such abetment or in pursuance of such criminal conspiracy, and notwithstanding anything contained in [section 116](#) of the Indian Penal Code (45 of 1860), be punishable with the punishment provided for the offence.

(2) A person abets, or is a party to a criminal conspiracy to commit, an offence, within the meaning of this section, who, in India abets or is a party to the criminal conspiracy to the commission of any act in a place without and beyond India which-

(a) would constitute an offence if committed within India;

or

(b) under the laws of such place, is an offence relating to narcotic drugs or psychotropic substances having all the legal conditions required to constitute it such an offence the same as or analogous to the legal conditions required to constitute it an offence punishable under this Chapter, if committed within India."

Section 29 of the NDPS Act, thus addresses the issues of abetment and criminal conspiracy in relation to narcotic offenses. This section is significant because it extends liability not only to those who directly engage

in drug-related activities but also to those who assist or conspire in such activities.

With deep concern, this court has time and again pointed out the clandestine smuggling of narcotic drugs and psychotropic substances in the State of Punjab which have led to drug addiction among sizeable section of the public, particularly adolescents and students and this menace has assumed serious and alarming proportion in the recent times. This rising concern of drug peddling needs an efficacious solution. To effectively address the drug menace caused by rapid drug smuggling, the concerned State Government should develop integrated policies that addresses the root cause of drug abuse, incorporating health, education and social welfare sectors. At this stage, it would be apposite to understand Article 47 of the Constitution of India which is read as under:-

“47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health-

“The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health”.

A glimpse at Article 47 of the Constitution of India (One of the Directive based on Socialistic Principles) makes it ample clear that it is the for the state to look into the improvement of public health and the prohibition of harmful substance.

Drug addiction is a multifaceted affliction that transcends the boundaries of mere criminality striking at the heart of our society's social and moral fabric. At its core, addiction is not simply a breach of law but a

manifestation of deeper socio-economic imbalances, psychological vulnerabilities, and systemic neglect. The judicial approach must therefore extend beyond traditional punitive measures to embrace a framework that prioritizes rehabilitation, education, and community reintegration

In recognizing that the roots of addiction often lie in a complex interplay of economic disenfranchisement, social isolation, and mental health challenges, it becomes essential for the legal system to adapt its response accordingly. The law, while enforcing accountability, must also uphold the principle of human dignity by facilitating avenues for recovery and transformation. This approach is anchored in the understanding that true justice does not reside solely in punishment but in the restoration of the individual and the community at large.

A re-imagined strategy should involve a paradigm shift from a strictly retributive model to one that integrates therapeutic interventions and proactive social measures. The legal framework ought to work in tandem with healthcare professionals and community organizations to craft comprehensive solutions that address both the symptoms and the underlying causes of addiction.

Coming back to the present case, wherein a total of 500 grams of opium, 480 kilograms of Doda Post, and 1020 kilograms of Poppy Husk were seized from the conscious possession of the main accused, namely Palwinder Singh, and a portion of the narcotics, specifically 20 kilograms of Poppy Husk, was intended to be supplied to the petitioner, who was found in communication with the main accused, this Court is of the opinion that the petitioner is directly implicated in the commission of the offence.

Consequently, custodial interrogation of the petitioner is necessary to fully investigate and ascertain the facts surrounding the case.

The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Live Law (SC) 870*** held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking

anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 482 BNSS, is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in **“State vs. Anil Sharma”; (1997) 7 SCC 187,** held as under:-

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

Keeping in view the role attributed to the petitioner, this Court is of the view that his custodial interrogation is required to collect the material evidence, which may further enable the Investigating Agency to unearth the ramifications involved in the present case and that will ultimately help the Investigating Agency to reach to a logical conclusion, this Court does not find any merit in the present petition, hence the same stands dismissed with no order as to costs.

However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the trial Court is free to adjudicate upon the matter in accordance with law.

(SANDEEP MOUDGIL)
JUDGE

01.03.2025

Meenu

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*