



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

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**CRM-M-62413-2024 (O&M)
Date of decision: 13.01.2025**

Lakhan Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Dhruv Gupta, Advocate
for the petitioner. (Through VC)

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*), is for grant of anticipatory bail to the petitioner in FIR No. 166 dated 20.10.2024, registered under Sections 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Shahzadpur, District Ambala.

2. Brief facts of the case relevant for the disposal of the present petition are that on 20.10.2024, on the basis of secret information, co-accused Rachpal Singh was arrested by a police party headed by SI Naresh Kumar and recovery of 696 intoxicant capsules containing Tramadol Hydrochloride was effected from him. He was formally arrested at the spot. The petitioner has been nominated in this case on the basis of the disclosure suffered by the said co-accused, wherein he stated that he used to purchase the intoxicant drugs

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from the present petitioner. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Ambala but the same had been dismissed, vide order dated 28.11.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The petitioner was not found at the spot and has been involved in this case on the basis of the disclosure statement made by the co-accused, which is not admissible in law against the petitioner. No independent witness was joined at the time of effecting recovery from the co-accused. The mandatory provisions of NDPS Act were not complied with. The petitioner is ready to join the investigation. No useful purpose would be served by detaining him in custody. Therefore, it is urged that the petition deserves to be allowed. To fortify his argument, learned counsel for the petitioner has relied upon the authority of Hon'ble Supreme Court rendered in ***Tofan Singh vs. State of Tamil Nadu : (2021) 4 SCC 1.***

4. *Per contra*, learned Assistant Advocate General, Haryana has argued that though the petitioner has been nominated in this case on the basis of the disclosure suffered by the co-accused, however, during the course of investigation, his complicity in commission of subject crime has been established. His custodial interrogation is must for proper investigation in the matter as well as for effecting further recovery of contraband, if any. It is, thus, argued that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also perused the material placed on record.

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6. The petitioner has been nominated in this case on the basis of the disclosure made by co-accused Rachpal Singh, from whose custody, recovery of 696 intoxicant capsules was effected. The quantity of the recovered contraband falls within the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would be attracted in this case. In order to burst the nexus of accused persons with the petitioner and also for effecting recovery of the contraband, if any, the custodial interrogation of the petitioner is required. So far as the ratio of law as laid down by Hon'ble Supreme Court in *Tofan Singh's* case (supra) is concerned, the same stands clarified by Hon'ble Supreme Court in *State of Haryana vs. Samarth Kumar : 2022(3) RCR (Criminal) 991*, wherein it has been held that the advantage of decision of *Tofan Singh's* case (supra) can be taken in regular bail application or at the time of final hearing after conclusion of trial and not while seeking concession of pre-arrest bail. The well settled proposition of law is that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses. The powers under Section 482 of BNSS are to be exercised in extraordinary and sparing circumstances. More so, custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 482 of BNSS. Many useful information can be disinterred during custodial interrogation. It has also to be seen that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. It is also a matter of discretion to grant or not to grant pre-arrest bail.

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Keeping in view the discussion as made above, I am of the considered opinion that no extraordinary or sparing circumstance entitling the petitioner to seek concession of pre-arrest bail has been made out rather his custodial interrogation is required for thorough investigation in the matter by the police. Accordingly, finding no merit, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

13.01.2025

Wasim Ansari

**(MANISHA BATRA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No