



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

CRM-M-64781-2024

Date of Decision:21.01.2025

Sukhwinder Singh @ Kindu

...Petitioner

Vs.

State of Punjab

...Respondent

Coram : **Hon'ble Mr. Justice N.S.Shekhawat**

Present: Mr. Jasvir Singh Dhaliwal, Advocate
for the petitioner.

Mr. I.P.S Sabharwal, DAG, Punjab.

N.S.Shekhawat J.

1. The petitioner has filed the present petition under Section 482 of B.N.S.S with a prayer to grant anticipatory bail to him in case FIR No.69, dated 01.12.2024 under Sections 15,29,61,85 of NDPS Act, registered at Police Station Fatehgarh Panjtoor, District Moga, Punjab (Annexure P-1).

2. The FIR in the present case was registered on the basis of the statement made by Sunita Rani, SI/SHO and the same has been reproduced below:-

“Officer Incharge, Police Station Fatehgarh Panjtur, "Fateh", Today I SI/SHO alongwith ASI Jarnail Singh 788/Moga, ASI Jasbir Singh 440/Moga, CT Kapil Yadav 839/Moga, CT Ishpreet Singh 703/Moga, L/ct Rupinder Kaur 604/Moga were riding on Government Vehicle bearing registration No. PB-29X-6635, whose driver is HC Lakhvir Singh 1161/Moga, carrying alongwith laptop and printer were departure towards the illaqa police station in connection with patrolling and searching the suspected person, when the police party was present at the grain market Lalihadi

while patrolling, then secret informer informed me I SI/SHO in private that Veer Singh, Nishan Singh, sons of Bohar Singh, residents of Madarpur, are in the habit of selling poppy seeds. Today Veer Singh and Nishan Singh are present at their house in village Madarpur. If their houses are raided now and interrogated them, they can get the poppy seeds recovered themselves, because they do not keep poppy seeds in their house, they keep them hidden somewhere outside their house and from that place they sell poppy seeds at different places. If the information is solid and reliable, Veer Singh, Nishan Singh have committed the offence under Sections 15, 61, 85 of NDPS Act. Therefore, a case has been send to the Police Station for registration of case against Veer Singh, Nishan Singh, son of Bohar Singh, resident of Madarpur through female constable Rupinder Kaur No. 604/Moga. A case should be registered and the FIR number should be informed and the original Rukka and copy of the FIR should be sent to the police station through female Constable Rupinder Kaur No. 604/Moga. Special report should be issued. Information is being send to the PCR Moga and Higher Officers. I SI/SHO alongwith other police personnel departed for the place indicated by the informant. Towards area: Dana Mandi Lalihadi at 01:50 PM, SD:- Sunita Rani, SI/SHO”.

3. Learned counsel for the petitioner contends that the petitioner has not been named in the FIR nor there is any averment in the FIR, which connects the petitioner with the commission of crime. Learned counsel further contends that the petitioner is sought to be implicated in the present case on the basis of the disclosure statement suffered by the co-accused and prerogative value of such evidence is inherently weak. Learned counsel further contends that the Kewal Singh, brother of the petitioner had contested the election for the post of Sarpanch and Veer Singh, co-accused had contested the election for the post of

Panch. Thus, Veer Singh, co-accused was keeping grudge against the petitioner due to political rivalry and the petitioner has been falsely involved in the present case on the ground of said fact.

4. On advance notice, Mr. I.P.S Sabharwal, DAG, Punjab has appeared on behalf of official respondent and submits that during the course of investigation, sufficient incriminating evidence has been collected against the petitioner. Learned State counsel further submits that four more cases under the provisions of NDPS Act were ordered to be registered against the petitioner and the petitioner has been acquitted in one such case. However, the petitioner is a habitual offender and deals in narcotics substance in the area. Apart from that, learned State counsel has also relied upon the law laid down by the Hon'ble Supreme Court in the matter of ***“State of Haryana Vs. Samarth Kumar”***, 2022 *LiveLaw (SC) 622*, wherein the Hon'ble Supreme Court held as follows:-

“4. The High Court decided to grant pre-arrest bail to the respondents on the only ground that no recovery was effected from the respondents and that they had been implicated only on the basis of the disclosure statement of the main accused Dinesh Kumar. Therefore, reliance was placed by the High Court in the majority judgment of this Court in ***Tofan Singh v. State of Tamil Nadu*** reported in (2021) 4 SCC 1.

5. But, it is contended by the learned Additional Advocate General appearing on behalf of the State of Haryana that on the basis of the anticipatory bail granted to the respondents, the Special Court was constrained to grant regular bail even to the main accused-Dinesh Kumar and he jumped bail. Fortunately, the main accused-Dinesh Kumar has

again been apprehended. According to the learned Additional Advocate General, the respondent in the second of these appeals is also a habitual offender.

6. Learned counsel appearing on behalf of the respondent in the first of these Appeals contends that the State is guilty of suppression of the vital fact that the respondent was granted regular bail after the charge-sheet was filed and that therefore, nothing survives in the appeal. But, we do not agree.
7. The order of the Special Court granting regular bail to the respondents shows that the said order was passed in pursuance of the anticipatory bail granted by the High Court. Therefore, the same cannot be a ground to hold that the present appeals have become infructuous.
8. In cases of this nature, the respondents may be able to take advantage of the decision in **Tofan Singh v. State of Tamil Nadu (supra)**, perhaps at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial.”

5. I have heard the learned counsel for the parties and perused the record carefully.

6. From the submissions made by learned counsel for the parties, it is apparent that at this stage, police has already found sufficient evidence against the present petitioner. Apart from that, the petitioner is a habitual offender and in the past also, he was involved in four more cases of NDPS Act.

7. Thus, findings no merits, the present petition is ordered to be dismissed.

(N.S.SHEKHAWAT)
JUDGE

21.01.2025

hitesh

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