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

**CRM-M-30331-2025 (O&M)
DATE OF DECISION :16.06.2025**

SIMRANDEEP**.....PETITIONER(s)****VERSUS****STATE OF HARYANA****.....RESPONDENT(s)****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. I.S.Dhaliwal, Advocate
for the petitioner(s).

SANDEEP MOUDGIL, J (ORAL)**1. Prayer**

This petition has been filed under Section 482 of BNSS, 2023 seeking the concession of anticipatory bail for the petitioner in FIR No.79 dated 17.03.2024 under Sections 15 of The Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 483 of IPC, registered at Police Station Sadar Sonipat, District Sonipat.

2. Facts

Prosecution story set up in the present case as per the version in the FIR reads as under :-

‘To: SHO, Police Station Sadar Sonipat, ASI, myself HC Pradeep 1462, and Constable Rajesh 220 were on night patrol in a government vehicle, Bolero No. HR-10GV-1452, with Driver Deepak. We were near village Badwasni on Juraim Gohana Sonipat Road when we observed a car, number CH01CM-0586, a brand ETIOS, standing in a suspicious condition, possibly

involved in an accident. ASI approached the car and, upon inspection, confirmed the presence of intoxicants inside. We informed the passersby about the investigation. At the same time, Jitendra, son of Shri Mehar Singh, a resident of Ratnagarh district, Sonipat, arrived at the spot. Upon searching the car, ASI discovered it was filled with doda poppy seeds. These were then placed in a plastic container and weighed using an electronic scale. The weights were as follows: Katta No. 1: 6 kg 20 grams, Katta No. 2: 13 kg 414 grams, Katta No. 3: 12 kg 455 grams, Katta No. 4: 7 kg 220 grams, Katta No. 5: 7 kg 155 grams, Katta No. 6: 7 kg 524 grams, Katta No. 7: 6 kg 644 grams, Katta No. 8: 8 kg 214 grams, Katta No. 9: 10 kg 660 grams, Katta No. 10: 11 kg 968 grams, Katta No. 11: 12 kg 460 grams, Katta No. 12: 11 kg 475 grams, Katta No. 13: 14 kg 624 grams, Katta No. 14: 11 kg 660 grams, Katta No. 15: 12 kg 760 grams, Katta No. 16: 13 kg 625 grams, Katta No. 17: 12 kg 660 grams, Katta No. 18: 12 kg 100 grams, The total weight of the doda poppy seeds was 192 kg 638 grams. After this, 18 plastic packets were prepared separately, and sample seals were made by marking all packets with the stamp SK/1. After ASI gave approval, the evidence was handed over to HC Pradeep 1462. The doda poppy seeds and car number CH01CM-0586, ETIOS, were seized as evidence, and the Fard recovery was prepared and signed by the witness. The unknown accused has committed an offense under Section 15 of the NDPS Act by keeping illegal doda poppy seeds in his car number CH01CM-0586. A SINGH RAWAT socomplaint has been lodged against him, and a case has been filed against Constable Rajesh 220 of Arsal Police Station. The case number should be communicated through the appropriate form, and a special report should be prepared. As ASI, I am requesting that another investigator be sent to the scene for the ongoing investigation. I am waiting for the ASI to continue further investigation. Location: Gohana Sonipat Road, near Village Badwasni, Hulla Heady Mode, Reporting Officer: SD Sunil, Police Station Sadar Sonipat, Date: 17-03-2024, Time: 09:00 AM, Upon receiving the report at the police station, the case was registered under Section 15 NDPS

Act, M.N. 79 days, dated 17/03/2024. The special report is being sent to the concerned officer via email. The original complaint, along with a duplicate copy, was handed over to the police constable for further action and sent to the concerned officer. Second investigator SI Rajesh 884/SPT was informed about reaching the scene. The manager of the police station was updated about the situation. The case was registered in the presence of ASI Salender 150/SPT.'

3. Contentions

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely roped in the instant FIR only on the basis of disclosure statement suffered by the co accused namely Lakha Singh, who stated that he sold the alleged car from which 192 Kg & 638 grams of poppy seeds were recovered. Moreover, the petitioner was not present at the spot and apart from that he is neither the driver nor the owner of the car from which the alleged contraband stands recovered.

Notice of motion.

On behalf of the State

On the asking of Court, Mr. Chetan Sharma, DAG, Haryana appearing on advance notice accepts the same on behalf of respondent-State and seeks dismissal of the present petition stating that the contraband involved is 192 Kgs and 638 grams of poppy seeds, which falls under commercial quantity. Therefore, rigour of Section 37 of NDPS would be attracted in the present case.

4. Analysis

In everyday terms, the principle of law dictates that bail is the general rule, while jail is the exception. However, this Court

acknowledges that the power to grant or deny bail is extraordinary and must be exercised with caution. It is well-established that when considering a bail application (whether pre-arrest or regular bail), the Court must form a *prima facie* opinion as to whether reasonable grounds exist to support the accusation, or if the accusation is frivolous and baseless possibly made with the intention of harming or humiliating the individual, or falsely implicating them in the crime. This evaluation must be conducted in light of the self-imposed restrictions and the broader legal parameters outlined.

On perusal of the contents of the FIR, it is evident that the petitioner has been implicated primarily on the basis of the disclosure statement made by co-accused Lakha Singh, wherein he stated that he had sold the vehicle used in the transportation of the alleged contraband to the petitioner. This assertion alone provides a *prima facie* basis for this Court to infer that the petitioner was knowingly involved in the business of trafficking narcotic substances, in active collusion with his co-accused. The circumstances suggest more than mere possession of the vehicle; rather, they indicate the petitioner's participation in a co-ordinated effort to engage in the illegal narcotics trade.

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 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 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.”

Considering the fact that the petitioner appears to be actively involved in illegal drug trafficking, this Court is of the opinion that his custodial interrogation is necessary to ascertain the source from which the alleged contraband was procured.

In the light of above discussions made hereinabove, the petition lacks merits and the same is hereby dismissed.



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

16.06.2025

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| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i> | <i>Yes/No</i> |