

IA No. 5/2025
SC No. 333/2025
State Vs. Praveen Kumar
FIR No. 122/2025
PS: Crime Branch
U/s: 20/25/29 NDPS Act

10.12.2025

**ORDER ON APPLICATION FOR ANTICIPATORY BAIL
FILED ON BEHALF OF THE APPLICANT/ACCUSED
PRAVEEN KUMAR**

1. This order of mine shall dispose of an application for grant of anticipatory bail filed on behalf of the applicant /accused Praveen Kumar.
2. I have already heard the counsel for the applicant /accused and the Ld. Addl. Public Prosecutor for State.
3. Ld. Counsel for the applicant/accused Praveen Kumar submitted that the applicant/accused is 45 years old man and is permanent resident of U.P. The applicant/accused had received notices u/s. 67(c) NDPS Act for joining the investigation, but due to fear of arrest, he did not join the investigation. He also submitted that the present applicant /accused is not named in the present FIR and he has no role whatsoever in the present case. Even he has no connection with the alleged co-accused in the present case.
4. Ld. Counsel for the applicant further submitted that the applicant/accused has no criminal antecedent and the applicant is completely innocent person and he has apprehension

that he may be arrested by the police officials of PS Crime Branch in the present false case. Ld. Counsel for the applicant /accused further argued that there is no evidence whatsoever against the present applicant/accused, except the disclosure statement of the co-accused and the alleged CDR connectivity, which have no incriminating value, therefore, there is nothing on record against the applicant/accused.

5. Ld. Counsel for the applicant further submitted that the applicant undertakes to appear before the Hon'ble Court on each and every date of hearing and he is ready to join investigation as and when required by the IO and also ready to abide by all terms and conditions imposed by the Hon'ble Court and he also undertakes not to hamper/tamper with the prosecution evidence if he is released on anticipatory bail and prayed for grant of anticipatory bail.

6. In support of his contentions, Ld. Counsel also referred the judgments, in **Bharat Chaudhary v. Union of India**, 2021 SCC OnLine SC 1235; **Superintendent & Remembrancer of Legal Affairs, West Bengal v. Anil Kumar Bhunja & Ors.**, AIR 1980 SC 52; **Dharampal Singh v. State of Punjab**, (2010) 9 SCC 608; **Madan Lal v. State of H. P.**, (2003) 7 SCC 465; **Union of India v. Shiv Shankar Keshari**, (2007) 7 SCC 798; **Union of India v. Rattan Mallik @ Habul**, 2009(1) SCC (Crl.) 831; and **Teru Majhi & Anr. v. State of West Bengal & Ors.**; 2014 SCC OnLine Cal 7684; **Gurbaksh Singh Sibbia v. State of Punjab**, (1980) 2 SCC 565; **Siddharam Satlingappa Mhetre v. State of**

Maharashtra, (2011) 1 SCC 694; P. Chidambaram v. Directorate of Enforcement, (2019) 9 SCC 24; Arnab Manoranjan Goswami v. State of Maharashtra & Ors., 2020 SCC OnLine SC 964; and Dataram Singh v. State of U.P. & Anr., (2018) 3 SCC 22. He also relied upon the judgment, Joy Mitra v. Narcotics Control Bureau Delhi, Bail Appln. 372/2024 & Crl. M.A. 3223/2024 dated 29.04.2025 (Hon'ble High Court of Delhi) and also Seesh Singh @ Mor v. State of Punjab, Crl. Appeal No. 822/2020 decided on 02.12.2020 (Hon'ble Supreme Court of India).

7. On the other hand, Ld. Additional Public Prosecutor for the State vehemently opposed the present application for grant of anticipatory bail and submitted that in the case in hand, 348.176 kg Ganja was recovered from 17 plastic bags kept in a truck loaded with watermelons and the said truck was being driven by co-accused Intezar Malik and helper Rizwan. He also submitted that during investigation, other co-accused persons were also arrested in the present case and name of the present applicant/accused was surfaced in the disclosure statement of co-accused Raghuv eer Roy. During investigation, a GPS device 'Flitrack' was tracked, which was connected with white TATA Aria, white Maruti Celerio and one Eicher Ten Tyre truck and name of the present applicant/accused was revealed. He also submitted that this applicant/accused did not join the investigation, despite serving notices to him twice and the non-cooperation of this applicant raises serious doubts regarding his involvement in the present case, therefore, custodial interrogation

of this applicant is required to unearth the truth and prayed for dismissal of the present application under consideration.

8. As per the reply filed by the IO, the applicant has not joined the investigation despite giving notices to him twice. NBWs have also been procured against the present applicant /accused, which could not be executed and on 03.12.2025, process u/s. 84 BNSS has been issued against the present applicant/accused. In the present case, the offence in question involves commercial quantity, therefore, bar of Sec.37 of NDPS Act is applicable in the present case. Hence, custodial interrogation of the applicant/accused is required to ascertain the complete supply chain, to identify the financiers, transporters and other associates and also to unearth the whole drug cartel.

9. I have given thoughtful consideration to the submissions made by counsel for this applicant/accused and Ld. Additional Public Prosecutor for State and perused the record.

10. Perusal of the record reveals that in the case in hand, 348.176 kg Ganja was recovered from the co-accused persons and the contraband recovered in the present case, falls within the category of commercial quantity, as per the NDPS Act.

11. The Hon'ble Supreme Court of India in "**Union of India v. Ram Samujh and Anr. Appeal (Crl.) 866 of 1999**" while dealing with bail matter relating to the commercial quantity of contraband was pleased to observe as under:-

To check the menace of dangerous drugs flooding the market, the Parliament has

provided that the person accused of offences under the NDPS Act should not be released on bail during trial unless mandatory conditions provided in Section 37, namely,

(i) there are reasonable grounds for believing that accused is not guilty of such offence; and
(ii) that he is not likely to commit any offence while on bail, are satisfied. The High Court has not given any justifiable reason for not abiding by the aforesaid mandate while ordering the release of the respondent accused on bail. Instead of attempting to take a holistic view of the harmful socio-economic consequences and health hazards which would accompany trafficking illegally in the dangerous drugs, the Court should implement the law in the spirit with which the Parliament, after due deliberation, has amended.

12. As per the reply filed by the IO, the present applicant/accused did not join the investigation, despite serving notices upon him twice. The custodial interrogation of the present applicant/accused is required to ascertain the complete supply chain, to identify the financiers, transporters and other associates and also to unearth the whole drug cartel. If the applicant/accused is granted anticipatory bail at this stage, it may adversely affect the on going investigation, which is at nascent stage.

13. It is pertinent to mention at the outset that despite notices, the applicant/accused did not join the investigation. The applicant/accused cannot put a condition that he will join the investigation, only after getting the interim protection or only after getting the anticipatory bail. In the present case, commercial

quantity of contraband, in the form of 348.176 kg of Ganja was recovered from the co-accused persons namely, Intezar Malik and Rizwan. The said contraband was sent by co-accused Raghuveer Roy @ Ravi from Rajmundry, Vishakhapatnam, A.P. Accused Raghuveer Roy has also been arrested, who had disclosed that he used to supply contraband to the present applicant/accused.

14. During arguments, it surfaced that although the alleged contraband which has been recovered in the present case, was not meant for the present applicant/accused, yet the IO has submitted that the custodial interrogation is required to unearth the entire supply chain of the drug cartel, as there were CDR connectivity and financial transactions also between the present applicant/accused and co-accused Raghuveer Roy, which are still under investigation. Moreover, it is also clear that NBWs have already been issued against the present applicant/accused, which could not be executed and even proceedings u/s. 84 BNSS have already been initiated against the present applicant/accused.

15. In **Srikant Upadhyay & Ors. v. State of Bihar & Anr., Criminal Appeal @ Special Leave Petition (Crl.). No. 7940 of 2023 / 2024 1 NSC 202**, the Hon'ble Supreme Court has held that:

“The power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be

left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”

16. In **Lavesh v. State (NCT of Delhi), 192 (2012) DLT 353=(2012) 8 SCC 730**, the Hon’ble Supreme Court has held that:

“It is trite law that while considering an application for anticipatory bail, the Court has to take into consideration the nature and gravity of the accusation, antecedents and possibility of applicant to flee from justice, etc. Normally, the Court should not exercise its discretion to grant anticipatory bail in disregard to the magnitude and seriousness of the matter.”

17. No doubt, the evidentiary value of the CDR connectivity and financial transactions are matter of trial, but the

fact that investigation qua the present applicant/accused is still undergoing and if the applicant/accused is granted anticipatory bail, it may adversely affect the on going investigation, as there is possibility of hampering with the witnesses and tampering with the evidence.

18. In **Pravinbhai Kashirambhai Patel v. State of Gujarat, (2010) 7 SCC 598**, it was observed by the Hon'ble Supreme Court that for consideration of an application for anticipatory bail, no straitjacket formula can be prescribed for universal application, as each case for grant of bail has to be considered on it's own merits and in the facts and nuances of each case.

19. In **State of Haryana v. Samarth Kumar, 2022 SCC OnLine 2087**, the Hon'ble Supreme Court negated the contention of the accused that at the stage of anticipatory bail, he is entitled to the benefit of the decision in **Toofan Singh v. State of Tamil Nadu, I (2021) SLT 484=(2021) 4 SCC 1**, wherein, it has been laid down that the disclosure statement of co-accused under Section 67 of the NDPS Act is inadmissible, by observing as under:-

“8. In cases of this nature, the respondents may be able to take advantage of the decision in Tofan Singh vs. 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.”

20. Thus, the accused may take the plea of inadmissibility of disclosure statement of co-accused u/s. 67 of

the NDPS Act at the time of regular bail application, but not, at the stage of anticipatory bail application. In **State (CBI) v. Anil Sharma, (1997) 7 SCC 187**, the Hon'ble Supreme Court has held that:

"Custodial interrogation is qualitatively more elicitive than questioning a suspect who is on anticipatory bail. In custody, the investigator will have the advantage of being able to obtain information which may be concealed if the suspect knows that he is protected by a pre-arrest bail order."

21. In the present case, apart from the statements of the co-accused persons, there are CDRs connectivity and financial transactions between the applicant/accused and other co-accused persons. The investigation, in this case, qua the present applicant/accused and also qua some of the other co-accused persons, is still pending and if anticipatory bail is granted to the applicant/accused at this stage, it may affect the on going investigation.

22. I have also gone through the judgments relied upon by the Ld. Counsel for the applicant/accused, but, the same are not applicable in the case in hand, as the facts and circumstances of those cases are totally different from the present case. Most of the judgments being relied upon by Ld. Counsel for the applicant /accused are on regular bail, such as Azeem Ahmed's case, Masoom Alam's case and Rashid Nadiar Ali Shah's case and it is well settled that consideration for regular bail and that for anticipatory bail are totally different. The judgments of Joy

Mitra's case and Seesh Singh @ Mor's case are also not applicable, as in Joy Mitra's case, the only material against the applicant therein was that the consignment was sent through courier and the accused name was mentioned as the addressee therein, while in Seesh Singh's case, the contraband was of intermediate quantity and the only material against the applicant therein was statement of co-accused.

23. So, in view of the fact that commercial quantity of Ganja was allegedly recovered from the possession of co-accused persons and also taking into consideration the nature of accusation, gravity of offences alleged to have been committed in the present case and that the applicant/accused did not join the investigation, despite serving notices to him twice and process u/s. 84 BNSS has already been initiated against the present applicant/accused and the law laid down by the Hon'ble Supreme Court of India in case of **Union of India v. Ram Samujh and Anr. (supra)**, and in view of the bar u/s. 37 of NDPS Act, the present applicant/accused does not deserve the concession of anticipatory bail.

24. In the above terms, the application for grant of anticipatory bail filed on behalf of the applicant/accused Praveen Kumar stands **dismissed**. Copy of this order be given dasti to the parties.

(PUNEET PAHWA)
Special Judge (NDPS)/Addl. Sessions Judge/
North East/KKD Courts/Delhi/10.12.2025