

**In the Court of Shri Bagicha Singh,
Judge, Special Court, Sangrur.
UID Number PB0264**

BA No. 176/20.01.2025.
CIS No. PBSG010005952025.
Decided On: 03.02.2025.

Rajinder Singh alias Mappa aged about 59 years son of Darshan Singh,
resident of Sherkhan Wala, Kulgari, Ferozepur, Punjab.

...Applicant/accused.

Versus

State of Punjab

FIR No. 0016 dated 15.01.2015
Under Sections 21/29/61/85 NDPS Act,
Police Station STF, Phase-4 Mohali.

Bail Applications under Section 482 BNSS.

Present: Shri Taran Singh Advocate, for applicant/accused.
Shri Munish Singla, Addl.P.P. for the State.

ORDER

The applicant/accused has filed application under Section
482 BNSS.

2. Counsel for accused/applicant submitted that
accused/applicant has been falsely implicated in this case. No recovery
was effected from the accused/applicant. Accused Dilbag Singh has been
implicated on the secret information and on the statement of Dilbag
Singh, accused/applicant Rajinder Singh has been falsely implicated in
this case. Recovery has been effected from Dilbag Singh and no recovery

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was effected from accused/applicant Rajinder Singh. Accused/applicant is not required for custodial interrogation. He is ready to join the investigation. So, he be released on bail.

3. On the other hand, Addl.P.P. for the State opposed the bail application on the ground that FIR was registered on the secret information against Dilbag Singh and Rajinder Singh that Dilbag Singh is selling the heroin in the area and Rajinder Singh has supplied the same to Dilbag Singh. Recovery of 266 gram heroin was effected from accused which falls under commercial quantity and role of the accused/applicant is important and his custodial interrogation is required. Learned Addl.P.P. for the State also produced call detail of Dilbag Singh and Rajinder Singh that on the same day, they talk with each other. So, learned Addl.P.P. for the State opposed the bail application that accused/applicant involved in this case and supplied heroin to Dilbag Singh. So, he is not entitled for pre-arrest bail and bail application may be dismissed.

4. I have heard the arguments of learned Addl.P.P. for the State and learned counsel for the accused/applicant and perused the case file.

5. The allegations against accused/applicant are that on 15.01.2025, SI Avtar Singh alongwith police party in search of bad elements was present at G-Haweli Dhaba Sangrur Patran main road. At about 12:55 PM, he received secret information that Dilbag Singh son of Jagtar Singh is doing the business of selling Heroin and today, he is wearing grey jacket and blue coloured jean and having a cap on his head and is coming to Dirba side for selling huge quantity of heroin and

waiting for his customers at bus stand Toor Banjara and this heroin was supplied by Rajidner Singh and if raid be conducted, he can be apprehended with huge quantity of heroin. Raid was conducted at bus stand Toor Banjara then one person was seen sitting there and he was apprehended. Investigating officer apprised him about his right and he reposed faith in IO. Notice under section 50 NDPS Act was given to him. Search was conducted and 266 gram heroin was recovered from him. Since the recovery effected from Dilbag Singh falls under commercial quantity and accused/applicant Rajinder Singh was nominated on the statement of Dilbag Singh. Accused/applicant was implicated on the statement of co-accused Dilbag Singh.

6. Accused filed application for pre-arrest bail. But the prosecution wants his custodial interrogation just to know the source from where he has brought the heroin and supplied to accused. The Hon'ble Supreme Court in case titled as **State of Haryana Vs. Samarth Kumar Criminal Appeal No. 1005 of 2022 D/d.20.07.2022** has held that,

“Criminal Procedure Code, 1973, Section 438 – Narcotic Drugs and Psychotropic Substances Act, 1985, Sections 17, 27A and 85 – Anticipatory bail- Advantage of decision reported in (2021) 4 SCC 1., may be taken perhaps at time of arguing regular bail application or at time of final hearing after conclusion of trial. Order of Special Court granting regular bail to respondents shows that order was passed in pursuance of anticipatory bail granted by High Court. Therefore, same cannot be ground to hold that present appeals have become infructuous. Therefore, grant of anticipatory bail set aside.”

Further, relevant paragraphs of the order are re-produced here:-

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.

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 case 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.

9. To grant anticipatory bail in a case of this nature is not really warranted. Therefore, we are of the view that the High Court fell into an error in granting anticipatory bail to the respondents.

10. In view of the above, the appeals are allowed. The impugned orders are set-aside. As a consequence, the Appellant- State is entitled to take steps, in accordance with law.

7. In this case, the police may collect more information, corroboration and affirmation evidence which further lead to know the source or the person who are involved in this case to supply the contraband/ narcotic substance. This can only be done by the custodial interrogation of the accused/applicant. In view of the observations of Hon'ble Supreme Court of India in above said case, accused/applicant is

not entitled for anticipatory bail at this stage. There is no ground to grant anticipatory bail to the accused/applicant. Accordingly, bail application is dismissed. Police file be returned. Bail application be consigned to record room.

Pronounced in open Court
Dated: 03.02.2025.

Shama, Stenographer

Bagicha Singh
Judge, Special Court,
Sangrur.UID No. PB0264.

(Bagicha Singh)
JSC, Sangrur.
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