

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

CWP No. 803 of 2014 (O&M)

Date of decision : 22.1.2016

Smt. Rano

.. Petitioner

versus

The Appellate Tribunal and others

.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Ashok Giri, Advocate, for the petitioner.

Mr. Karminder Singh, Advocate, for respondent no. 2.

Mr. Nilesh Bhardwaj, Deputy Advocate General, Punjab.

Rajesh Bindal, J.

The present petition has been filed seeking quashing of order dated 28.6.2007 (Annexure P-1) passed under Section 68F(2) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act'), freezing the property mentioned in the order and order dated 27.7.2007 (Annexure P-2), vide which the freezing order was confirmed. Challenge has also been made to order dated 18.11.2013 (Annexure P-5), passed by Appellate Tribunal for forfeited Property, New Delhi, vide which the appeal filed by the petitioner against the order of freezing the property was dismissed being barred by limitation as the appeal was filed against the order dated 27.7.2007 freezing the property, on 21.6.2013.

Learned counsel for the petitioner submitted that there were three FIRs against the petitioner, as have been mentioned in the order dated 27.7.2007 (Annexure P-2), out of which, in two she was acquitted and in third, she was convicted. The case set up by the State is that the poppy husk was sold by the petitioner and out of the sale proceeds, the house was purchased. In fact, the property was owned by the husband of the petitioner, which was purchased in the year 2003. No notice was issued to the husband of the petitioner, who is the owner of the property. Hence, the order freezing

the property of the petitioner deserves to be set aside. In support of his arguments, reliance was placed upon judgment of this Court in Union of India and another vs Gurmail Singh and others 2015 (3) R. C. R. (Criminal) 323.

Learned counsel for Union of India submitted that it is not only the petitioner but the entire family of the petitioner is involved in the drug business. The notice was issued to the husband of the petitioner as well, which was duly served upon him on 16.7.2007, however, he did not respond. It was further submitted that though the petitioner has been acquitted in two FIRs, however, she has been convicted in third case. It is so stated in reply to para no. 13(e) of the writ petition to which no replication has been filed by her.

Learned counsel for the State submitted that there are number of cases registered against the petitioner, her husband, Darshan Lal, son Onkar Singh Lucky, starting from the year 1983 onwards. Even after the FIRs, mentioned in the freezing order, the family was involved in further cases as well. He furnished a list of 10 cases registered against the petitioner, out of which in 4 she was convicted, in 3 cases, the trial was still pending and in 3 cases she was acquitted. The husband of the petitioner Darshan Lal was involved in 16 cases, starting from the year 1983 onwards. One case bearing FIR No. 304/2014 under Sections 22/61/85 of the NDPS Act was registered against her son Onkar Singh Lucky at Police Station Nakodar, District Jalandhar. Seeing the conduct of the entire family, there is no error in the order freezing the property of the petitioner.

Heard learned counsel for the parties and perused the paper book.

The order freezing the property, mentioned three FIRs, which are as under:-

<i>Sr. No.</i>	<i>FIR Number and Date</i>	<i>Under Section</i>	<i>Police Station</i>
1	182 dated 28.10.1993	15 of NDPS Act	Nakodar
2	56 dated 2.4.2005	15 of NDPS Act	Nakodar
3	73 dated 24.3.2007	15 of NDPS Act	Nakodar

It is not in dispute that in FIR No. 73 dated 24.3.2007, registered under Section 15 of the NDPS Act at Police Station Nakodar, the

petitioner was convicted vide judgment dated 20.11.2009. In total, the petitioner was involved in following 10 cases under the NDPS Act, in terms of the list furnished by learned counsel for the State:-

<i>Sr. No.</i>	<i>FIR number/ year</i>	<i>Under Section</i>	<i>Police Station and District</i>	<i>Status</i>
1.	182/1993	15/61/85 NDPS Act	Nakodar/ Jalandhar	Acquittal
2.	111/2000	15/61/85 NDPS Act	Nakodar/ Jalandhar	Acquittal
3.	56/2005	15/61/85 NDPS Act	Nakodar/ Jalandhar	Acquittal
4.	73/2007	15/61/85 NDPS Act	Nakodar/ Jalandhar	Punished for 3 months
5.	259/2008	15/61/85 NDPS Act	Nakodar/ Jalandhar	Punished for 3 months
6.	49/2008	15/61/85 NDPS Act	Nakodar/ Jalandhar	Punished for 1½ years
7.	178/2009	15/61/85 NDPS Act	Nakodar/ Jalandhar	Punished for 10 years along with fine of ₹ 1 lac
8.	70/2013	15/61/85 NDPS Act	Nakodar/ Jalandhar	Pending
9.	206/2014	15/61/85 NDPS Act	Nakodar/ Jalandhar	Pending
10.	85/2014	15/61/85 NDPS Act	Sadar/ Nawanshahar	Pending

A perusal of the aforesaid list shows that the petitioner was convicted in 4 cases out of 10 cases, whereas trial in three was still pending. The list of cases against the husband of the petitioner, namely, Darshan Lal was also furnished, which is as under:-

<i>Sr. No.</i>	<i>FIR number/ year</i>	<i>Under Section</i>	<i>Police Station and District</i>	<i>Status</i>
1.	14/1983	15/61/85 NDPS Act	Nakodar/ Jalandhar	
2.	173/1983	15/61/85 NDPS Act	Nakodar/ Jalandhar	
3.	77/1984	61/1/14 NDPS Act	Nakodar/ Jalandhar	
4.	194/1984	61/1/14 NDPS Act	Nakodar/ Jalandhar	
5.	312/1984	15/61/85 NDPS Act	Nakodar/ Jalandhar	
6.	176/1986	15/61/85 NDPS Act	Nakodar/ Jalandhar	

<i>Sr. No.</i>	<i>FIR number/ year</i>	<i>Under Section</i>	<i>Police Station and District</i>	<i>Status</i>
7.	326/1986	61/1/14 NDPS Act	Nakodar/ Jalandhar	
8.	452/ 1986	15/61/85 NDPS Act	Nakodar/ Jalandhar	
9.	110/ 1992	15/61/85 NDPS Act	Nakodar/ Jalandhar	
10.	36/1993	15/61/85 NDPS Act	Nakodar/ Jalandhar	
11.	50/1993	15/61/85 NDPS Act	Nakodar/ Jalandhar	
12.	331/2000	15/61/85 NDPS Act	Nakodar/ Jalandhar	
13.	487/2003	15/61/85 NDPS Act	Nakodar/ Jalandhar	
14.	286/2012	15/61/85 NDPS Act	Nakodar/ Jalandhar	
15.	70/2013	15/61/85 NDPS Act	Nakodar/ Jalandhar	
16.	53/2014	15/61/85 NDPS Act	Nakodar/ Jalandhar	

Considering the track record of the entire family, who had been regularly indulging in drug trade and convicted in number of cases, there is no error in the order passed by the authorities freezing the property in question.

The writ petition is accordingly dismissed.

22.1.2016
vs

(Rajesh Bindal)
Judge

(Refer to Reporter)