

CRM-M-7204-2018(O&M)
Date of decision: 28.02.2018

Rajni ...Petitioner
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.S.Gill, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail to the petitioner in case FIR No.102 dated 31.01.2018 under Sections 20, 25, 27-A and 29 of NDPS Act, registered at Police Station City Thanesar, District Kurukshetra.

Learned counsel for the petitioner submits that as per allegation in the FIR, the petitioner was not named and a secret information was received that petitioner-Rajni deals in selling of 'Ganja' and has kept the same at the house of co-accused-Banti, resident of her *Basti* locality and has given some money to her. On the date of registration of the FIR, petitioner-Rajni had brought huge quantity of 'Ganja' in her Innova car bearing registration No.HR-06U-1008 driven by Sonu and had kept concealed it in a store type place, which is without roof and door wherein certain wooden planks are lying and the same is full with garbage and unused household articles. On the basis of said information, the FIR was registered and search was conducted at the house of Smt. Banti and after issuing a notice under Section 50 of the Act to which she gave her consent to be searched by gazetted Officer, the Deputy Superintendent of Police, Headquarter,

Kurukshetra was called at the spot. Thereafter, the search of the store, which is situated outside the house of Banti, was conducted and under the unused articles and garbage lying therein, one white coloured heavy plastic bag was recovered and on checking, 22 kgs 600 grams 'Ganja' was recovered.

Counsel for the petitioner has submitted that the petitioner was not arrested at the spot and since the recovery was made from the house of Banti, after sunset, the same was in violation of provisions of Section 42 of the NDPS Act and has relied upon, the order dated 23.02.2018 passed in ***CRM-M-5182 of 2018 titled as Makhan Singh Vs. State of Punjab***, wherein, in a case where the mandatory provision of Section 42 of the Act before entering and searching inside a house were violated, the accused person was granted regular bail.

In reply, learned State counsel, on instructions from ASI Gulab Singh, has opposed the prayer for bail. It is submitted that petitioner-Rajni has already been convicted in two FIRs under NDPS Act and her sentence has been suspended. It is further stated that the recovery of 22kgs 600 grams of 'Ganja', falls in 'commercial quantity' and apart from secret information that petitioner has kept the same with co-accused Banti, even she has made a disclosure statement that the narcotic belongs to the petitioner.

After hearing counsel for the parties, I find no merit in the present petition. It is not disputed by counsel for the petitioner that the petitioner has already been convicted in two FIRs and her sentence has been suspended. As per secret information, the petitioner has brought commercial quantity of 'Ganja' in her car and kept concealed the same in a place outside the house of co-accused Banti and, therefore, this Court cannot record a

finding that she is not a habitual offender. The argument raised by counsel for the petitioner that provisions of Section 42 of the Act were not followed before entering the house of co-accused-Banti, is without any basis as firstly, it is the case of prosecution that the recovery was made from a place outside the house of the petitioner, having no roof or door and secondly, in Makhan Singh's case (supra), the Court has considered this argument, while deciding a regular bail and it was not a case that the accused in the said case was an habitual offender.

In view of the same, I find no ground to grant concession of anticipatory bail to the petitioner. Dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

28.02.2018
Hemlata

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