

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

**CRM-M-17138 of 2020 (O & M)
Date of Decision:-10.07.2020**

Sarabjit Kaur @ Sabbe

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. J.S. Thakur, Advocate
for the petitioner.

Mr. Sandeep Vermani, Addl. A.G., Punjab.

JASGURPREET SINGH PURI J.(Oral)

The matter has been taken up by way of video conferencing.

Petitioner-Sarabjit Kaur @ Sabbe has filed the present second petition under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.152 dated 13.11.2019, under Section 21 of NDPS Act, registered at Police Station Rahon, District SBS Nagar.

Learned counsel for the petitioner has argued that in the present case although the first petition, which was filed for anticipatory bail vide Criminal Misc. No. M-53505 of 2019 was dismissed by this Court on merits on 17.01.2020 but he has filed the second petition for anticipatory bail on the ground that the police is harassing the petitioner and making raids for the purpose of arresting her. He has further pleaded that the petitioner is a

lady and in view of epidemic which is prevailing in the country, she is entitled for grant of anticipatory bail.

In the present case the FIR was registered under the provisions of Section 21 of the NDPS Act, 1985 and recovery of 570 grams of heroine, which is of commercial quantity was recovered from co-accused Baljit Singh, who is in custody. On the basis of disclosure statement made by said Baljit Singh, from whom the aforesaid heroine was recovered, the petitioner was nominated as accused in the FIR and consequently she had approached this Court for grant of anticipatory bail. Earlier application for anticipatory bail was dismissed vide order dated 17.01.2020 (Annexure P-4) by this Court on merits.

On the other hand, learned State counsel has vehemently argued that the present petition for grant of anticipatory bail is not maintainable as the earlier petition for anticipatory bail was dismissed on merits vide order dated 17.01.2020 (Annexure P-4). He has further argued that even otherwise on mereits also the nature of allegations against the petitioner are very serious in nature not only in view of the fact that huge quantitiy of heroine was recovered from the co-accused Baljit Singh but also in view of the fact that while investigating the co-accused Baljit Singh, who had named the petitioner, it came to the knowledge of investigating agency that the said quantitiy of heroine was obtained four times from one Nigerian, who is from Delhi and which was obtained on the basis of asking by the petitioner so that the intoxicating material can be supplied. He has further opposed the grant of anticipatory bail to the petitionr on the ground that there are total seven other FIRs registered against the petitioner, out of

which she has already been convicted in two cases and acquitted in one case and the remaining cases are still pending and those cases also pertain to NDPS Act. Learned State counsel on instructions from ASI Talwinder further stated that there is sufficient and adequate material to connect the petitioner with the recovery, which has already been effected by the police and the connection of a foreign national in the present case is also very material. Therefore, it is very essential to make custodial investigation of the petitioner.

I have heard learned counsel for the parties carefully through video conferencing.

The petitioner had also filed a petition for anticipatory bail vide Criminal Misc. No. M-53505 of 2019, which was dismissed vide order dated 17.1.2020 (Annexure P-4). The petitioner has not been able to satisfy the Court that there is any change of circumstances, and rather he has pointed out Annexure P-5 whereby the learned Additional Chief Judicial Magistrate, SBS Nagar vide order dated 18.3.2020 had passed the following order :-

“Non-bailable warrants of accused Sarabjit Kaur has been received back unexecuted with the report that accused has been evading arrest and she is hiding at different places. Perusal of the file reveals that on 18.02.2020 non-bailable warrants were ordered to be issued but today non-bailable warrants of accused has been received back unexecuted with the report that accused is evading her arrest and she has been hiding at different places. In the considered view of this Court the offence is cognizable and the police has due right to

arrest her by following the due process. Accordingly, the further continuation of present application is not made out and same stands dismissed in view of the law laid down by Hon'ble Punjab and Haryana High Court in case title "Gurjit Singh Johar Vs. State of Punjab and anr." in CRM-M-47872 of 2019 (O & M) decided on 08.11.2019. File be consigned to the record room."

Learned counsel for the petitioner has not disputed the factum of cases pertaining to the petitioner under the NDPS Act. However, in para 16 of the petition he has submitted that there are five other cases registered against the petitioner under the NDPS Act, out of which she has already been convicted in two cases. There is a specific bar created under Section 37 of NDPS Act and this Court is not satisfied as to how the case of the petitioner can be covered in any exception created under the Act. While hearing learned counsel for the State that sufficient material is already with the police to connect the petitioner with the recovery of huge quantity of heroine having link with the foreign national and the fact that the matter being serious in nature coupled with the fact that earlier the petition for anticipatory bail was dismissed on merits, I do not deem it fit and proper to interfere in the present petition.

Consequently, the present petition is dismissed.

July 10, 2020
Vijay Asija

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No