

S.No.203

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

CRM-M-18527 of 2020 (O&M)

Date of Decision:23.07.2020

Nihal Kaur and another

.....Petitioners

Vs.

State of Punjab

.....Respondent

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IN VIRTUAL COURT

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CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Pardeep Kumar Kapila, Advocate for the petitioners.

Rajbir Sehrawat, J.(Oral)

CRM No.16822 of 2020

Application is allowed. Annexure P.4 is taken on record.

CRM-M-18527 of 2020

The present petition has been filed by the petitioners under Section 438 Cr.P.C for grant of anticipatory bail in case FIR No.137 dated 14.05.2020 registered under Section 21, Act No.61 of year 1985 of NDPS Act at Police Station City Sunam, District Sangrur.

It is contended by counsel for the petitioners that the petitioner have wrongly been involved in the case. The names of the petitioners have been dragged in the matter only on the basis of the alleged disclosure statement of the co-accused Harpal Kaur, from which, allegedly 650 grams of heroin was recovered. However, so far as petitioner No.1 is concerned, there is not even an allegation that she was accompanying the said Harpal Kaur in the car at the time when the alleged recovery was effected. The allegation against petitioner No.2 – Bharpur Singh is also wrong. He was

also not present in the car at all. The co-accused of the petitioners with similar allegations have already been granted concession of anticipatory bail. Hence, the petitioners deserve concession of anticipatory bail.

Notice of motion.

Mr. Rana Harjasdeep Singh, DAG, Punjab, accepts notice on behalf of the State.

Learned State Counsel submits that the names of the petitioners have duly surfaced during the investigation. Both the petitioners are having other cases against them. Petitioner No.1 is having four more cases, out of which, in two cases, she was acquitted and two cases are still going on. So far as petitioner No.2 is concerned, he was also involved in three cases. Out of these three cases, petitioner No.2 has already been convicted in one case and is facing trial in two cases. Counsel has further submitted that although name of petitioner No.1 surfaced only during the investigation, however, petitioner No.2 was very much present in the car when it was intercepted by the Police. However, petitioner No.2 had managed to escape by dozing the Police. Hence, the present petition deserve to be dismissed.

Having considered the matter, this Court finds that petitioner No.1 is not even alleged to be present in the car when the same was intercepted by the Police and recovery was effected. On the other hand, petitioner No.2 is alleged to be present in the car but it is alleged that he had escaped from the spot when the car was intercepted. The further fact is that petitioner No.2 has been convicted in one similar case and he is facing two more cases under NDPS Act.

In view of the above, the present petition is dismissed qua petitioner No.2 and the present petition is allowed qua petitioner No.1. The petitioner No.1 is granted concession of anticipatory bail. Therefore, it is directed that in case of her arrest, the petitioner No.1 – Nihal Kaur shall be released on bail subject to her furnishing bail bonds/ surety bonds to the satisfaction of Arresting/ Investigating Officer. However, it is further directed that the petitioner No.1 shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

July 23, 2020
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No