

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

CRM-M-33224-2020 (O&M)

Date of decision: 16.10.2020

Balwinder Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Sandeep Arora, Advocate for the petitioner.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This petition for pre-arrest bail has been filed by petitioner Balwinder Kaur, aged about 42 years, an accused in FIR No.258 dated 31.08.2020, for an offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act'), registered with Police Station Division No.8, Jalandhar.

Briefly stated facts of the case as per prosecution version are that, on 31.08.2020, a police party from Police Station Division No.8, Jalandhar received a secret information that Lovepreet Singh @ Ravi son of Balbir Singh, resident of Village Nangal Salempur, Jalandhar along with his mother Debo (Balwinder Kaur-petitioner) and one Shinder @ Budhu son of Rana, resident of Hargobind Nagar, Jalandhar were engaged in sale of poppy husk and at that time, all three of them were

present in the area of Ramneek Avenue, having such contraband waiting for somebody and in case, a raid was conducted, they could be caught red handed. The information being reliable one, ruqa was sent to the police station and formal FIR was got registered. A raid was conducted at the disclosed place when Lovepreet Singh was apprehended along with 60 kgs of poppy husk, however, his mother Balwinder Kaur @ Debo and Shinder @ Budhu managed to run away.

Apprehending her arrest in this case, petitioner had approached Judge, Special Court, Jalandhar for grant of pre-arrest bail. However, her such petition was dismissed by the said Court, vide order dated 01.10.2020. Therefore, she has knocked at the door of this Court, praying for grant of similar relief.

Notice of motion.

Mr. H.S. Sullar, DAG, Punjab, accepts notice on behalf of the State and opposes the prayer made on behalf of the petitioner.

I have heard learned counsel for the parties besides going through the record.

The petitioner is specifically named in the FIR. As per prosecution story, she along with Lovepreet Singh and Shinder @ Budhu were present having contraband in the form of 60 kgs of poppy husk but on seeing the police party, she along with Shinder @ Budhu had managed to escape, whereas, Lovepreet Singh was arrested along with the contraband. The mere fact that the petitioner had slipped away from the spot on seeing the police party goes to show her guilty intention because if she had not done anything wrong, there was no reason for her to leave

the spot on seeing the police party. Now having been done so, she cannot take advantage of her own wrong and start asking for grant of pre-arrest bail, which is a discretionary equitable relief to be granted in exceptional cases and not in routine. The purpose of grant of pre-arrest bail is to save innocent persons from harassment and not to shield the criminals from custodial interrogation. The custodial interrogation of the petitioner is found to be necessary for complete and effective investigation, so as to find out as to from where the contraband had been procured and to which persons it was to be supplied. Furthermore, the recovery involved in this case amounts to commercial quantity, attracting bar of Section 37 of the Act, which provides that no person accused of an offence involving commercial quantity shall be released on bail unless the Public Prosecutor oppose the request, unless the Court is satisfied that there are reasonable grounds for believing that she is not guilty of the offence and that she is not likely to commit any offence while on bail. I do not see any reason to record such satisfaction. Therefore, in view of Section 37 of the Act also, the petition is doomed for failure. Keeping in view the discussion (supra), the petition fails and is dismissed accordingly.

16.10.2020

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No