

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

Sr.No.101

CRM-M No.29055 of 2021

Date of Decision: 03.08.2021

Shabnam

...Petitioner

Versus

State of Haryana

...Respondent

(Heard through Video-Conferencing)

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Abhilaksh Grover, Advocate for the petitioner.

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MEENAKSHI I. MEHTA, J.

Apprehending her arrest in the criminal case pertaining to the FIR bearing No.99 dated 10.02.2021 registered at Police Station City Yamuna Nagar, under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (here-in-after to be referred as “the NDPS Act”), the petitioner has preferred this (second) petition to seek the relief of anticipatory bail, after withdrawing the first petition moved by her for the same purpose.

As per the allegations levelled in the case in hand, the co-accused of the petitioner named Upender Rai alias Babu was apprehended by the police party on the basis of a secret information and his personal search resulted in the recovery of 'smack' and during his interrogation, he suffered a disclosure statement regarding his having purchased 60 grams smack from the petitioner for further selling the same.

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Mr. S.S. Pannu, learned Deputy Advocate General, Haryana, has joined the proceedings in pursuance of the copy of this petition having been sent to the respondent-State in advance.

I have heard learned counsel for the petitioner as well as learned State counsel in the present petition and have also perused the file thoroughly.

Learned counsel for the petitioner contends that the name of the petitioner does not find mention in the subject FIR and rather, she has been nominated as an accused in this case in view of the disclosure statement made by her afore-named co-accused only and mere disclosure statement is not sufficient to establish the involvement of the petitioner in the alleged crime. In support of his contention, he places reliance upon **Tofan Singh vs. State of Tamil Nadu, (2021) 1 RCR (Criminal) 1.** He further contends that the quantity of the smack, as allegedly sold by the petitioner to her said co-accused, i.e. 60 grams, falls under the category of “*non-commercial quantity*” and therefore, the petitioner deserves the relief as prayed for in this petition.

Per contra, learned State counsel argues that besides the present case, the petitioner is involved in two more cases of the similar nature and this fact itself shows that she is a habitual offender and it being so, the present petition deserves dismissal.

However, even if, the name of the petitioner does not figure in the above-said FIR and she has, rather, been named as an accused by her said co-accused during his disclosure statement, even then, the fact

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remains that the evidentiary value of this disclosure statement can and shall be looked into and evaluated by the trial court at the appropriate stage during the trial proceedings.

The observations as made by Hon'ble the Supreme Court in Tofan Singh's case (supra) do not further the cause of the petitioner in this petition because these do not pertain to the grant or refusal of the anticipatory bail and rather, these were made while answering a reference arising out of the Criminal Appeal wherein the conviction, as based solely on the purported confessional statement recorded under Section 67 of the NDPS Act, had been challenged.

Even if the quantity of smack, as allegedly sold by the petitioner to her said co-accused, comes within the category of '*non-commercial*' one, even then, this Court cannot lose sight of the fact that in para No.12 of the petition itself, the petitioner has categorically mentioned that two more FIRs have already been registered against her under the NDPS Act.

In these circumstances, this Court is of the considered opinion that the petitioner does not deserve the relief of anticipatory bail. Resultantly, the instant petition stands dismissed accordingly.

03.08.2021
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned *Yes*

Whether Reportable *No*