

CRM-M-40497-2021

Date of Decision: 22.11.2021

Balwinder Kaur

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Lakshay Bector, Advocate,
for the petitioner.

Mr. M.S. Nagra, A.A.G., Punjab.

AMOL RATTAN SINGH, J. (ORAL)

On 28.09.2021, the following order had been passed by this
court:-

“Case heard by way of video conferencing.

*By this petition, filed under the provisions of
Section 438 of the Cr.P.C, the petitioner seeks the
concession of anticipatory bail, upon FIR no.114, dated
25.08.2021, having been registered at Police Station
Shimlapuri, District Ludhiana, alleging therein the
commission of offences punishable under Sections 21
and 22 of the NDPS Act, 1985.*

*Learned counsel for the petitioner submits
that the petitioner has been arraigned as an accused
only on the basis of an alleged secret information
received, with there being no other criminal case
registered against her.*

*Notice of motion, with Mr. Rana Harjasdeep
Singh, learned DAG, Punjab, accepting notice on behalf
of the respondent State, on the asking of the court.*

He submits that the petitioners' daughter having been apprehended at the spot and the entire family alleged to be indulging in the sale of intoxicant drugs, she does not deserve to be admitted to bail.

However, upon query to the learned State counsel, he could not deny that as per his instructions there is no other criminal case registered against her and that she has been so arraigned as an accused on the basis of secret information.

That being so, in my opinion, the petitioner is entitled to at least the concession of interim bail, pending a reply to be filed by the respondent State, even in terms of Section 37(1)(b)(ii) of the NDPS Act, 1985.

Consequently, the petitioner is directed to join investigation within one week and upon her doing so, in case she is sought to be arrested, she would be admitted to interim bail, on her furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaq Magistrate. She shall abide by the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, she would appear before the learned Illaq Magistrate immediately, who would then summon the arresting officer and direct him to join her in investigation.

Adjourned to 15.11.2021.

A gazetted officer is directed to file a reply to the petition."

Pursuant thereto, an affidavit has been filed by the Assistant Commissioner of Police, Industrial Area-B, Ludhiana, dated 28.10.2021, which is ordered to be taken on record.

As per the said affidavit, the petitioner and her family “sell intoxicant tablets on the road” and therefore she does not deserve the concession of anticipatory bail, though otherwise it is admitted that she has joined investigation on 05.10.2021, pursuant to the aforesaid order of this court.

Upon query, learned State counsel could not deny that even today there is no other criminal case registered against the petitioner.

That being so, without making any comment on the actual merits of the case, with it to be reiterated that the petitioner is being admitted to bail even in terms of Section 37 (1) (b) (ii) of the NDPS Act, 1985, for the reasons already stated in the order passed by this court on 28.09.2021, the petition is allowed with the said order made absolute.

However, no observation made by this court either in this order, or any previous order, would be taken into consideration to determine the actual guilt or innocence of the petitioner, all such observations having been made only in the context of a petition filed under the provisions of Section 438 of the Cr.P.C.; and naturally, her guilt/innocence would be determined on the basis of evidence gathered/led.

November 22, 2021
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.