

In virtual Court

CRM-M-42546-2019

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42546-2019 (O&M)
Date of decision: 05.04.2021

Jaswinder Kaur

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Varinder Basa, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of the order dated 03.06.2019 (Annexure P-8) passed by the Judge, Special Court, Amritsar, vide which the petitioner has been declared a proclaimed offender in FIR No.19 dated 03.09.2017 under Section 21/25/29/61 of NDPS Act, registered at Police Station Amritsar, District Amritsar, by treating her as @Parkash Kaur.

Learned counsel for the petitioner submits that the FIR was registered on 03.09.2017 on the basis of a secret information against Amritpal Singh, Jarnail Singh, Bhupinder Singh, Salinder Singh and Partap Singh that they are selling the intoxicants. Later on, during the investigation, accused

Jarnail Singh suffered a disclosure statement implicating Parkash Kaur as an accused. It is further submitted that when the petitioner was taken in custody by the police, one Ranjodh Singh had filed CRWP-1022-2017 praying for a writ in the nature of habeas corpus to release the detinue (present petitioner), who was kept in illegal custody. It is also submitted that in that petition, a Warrant Officer was appointed, who gave a report on 06.09.2017 that petitioner Jaswinder Kaur was found to be in illegal detention without any case and she was released from illegal detention. While visiting the police station, the Warrant Officer also recorded the statement of petitioner Jaswinder Kaur, who stated that she is in illegal custody.

Learned counsel for the petitioner has further submitted that name of the petitioner is Jaswinder Kaur wife of Jasbir Singh, however, vide impugned order dated 03.06.2019, the trial Court had issued proclamation against the petitioner by showing her as Parkash Kaur wife of Jasbir Singh, resident of Rasulpur, P.S. Sekha, Amritsar. Learned counsel has relied upon her Aadhar Card and Identity Card issued by Election Commission of India, to submit that the petitioner is named as Jaswinder Kaur wife of Jasbir Singh. It is thus submitted that proclamation under Section 82 Cr.P.C. was, in fact, made in the name of Parkash Kaur and not in the name of Jaswinder Kaur, therefore, the impugned order dated 03.06.2019, declaring the petitioner as proclaimed offender is illegal, as the police, under the garb of said order, wants to arrest her, by stating that petitioner Jaswinder Kaur is Parkash Kaur.

Reply by way of affidavit of Deputy Superintendent of Police,

STF, Border Range, Amritsar on behalf of respondents No.1 & 2 is on record, in which it is stated that when the Warrant Officer visited the police station, he was informed that the alleged detainee is Parkash Kaur and she was arrested on 04.09.2017 and an information regarding her arrest has already been given to the Illaqa Magistrate by way of special report and this fact was also stated before this Court in reply filed to CRWP-1022-2017. It is further stated that when said CRWP-1022-2017 was finally decided on 12.09.2017, following order was passed: -

“...Learned State counsel, on instructions from Inspector Baljit Singh, states that before the visit of Warrant Officer appointed by this Court, the police had already submitted a report to the Magistrate qua arrest of the alleged detainee. He further states that, in fact, the name of alleged detainee Jaswinder Kaur is Parkash Kaur, who is wife of Jasvir Singh. Therefore, considering the report of Warrant Officer and the plea of learned State counsel that the name of alleged detainee Jaswinder Kaur is Parkash Kaur, against whom a case has already been registered by the police, this Court does not find any merit in the present petition and the same is, accordingly, dismissed.

September 12, 2017

*Sd/-
(HARI PAL VERMA)
JUDGE”*

Learned State counsel submits that in fact, on verification, it is found that petitioner Jaswinder Kaur and Parkash Kaur are the same person,

who is wife of Jasbir Singh, therefore, finding that aforesaid FIR under NDPS Act has already been registered against the petitioner, aforesaid criminal writ petition was dismissed. It is further submitted that in pursuance of the order dated 03.10.2019, a verification has been done whether Parkash Kaur wife of Jasbir Singh and Jaswinder Kaur wife of Jasbir Singh are the same person or are two different persons and the police recorded the disclosure of Jarnail Singh, one of the accused, in the aforesaid FIR No.19, where he stated that his sister-in-law Parkash Kaur wife of Jasbir Singh resident of Rasulpur is also indulged in the business of selling heroin.

It is further submitted that even upon verification through Gram Panchayat Rasulpur, under the signatures of Balkar Singh, Sarpanch, Ajit Singh, Ex-Member and Tarlok Singh, Numberdar, Village Rasulpur, it is found that Jasbir Singh son of Sarwan Singh is resident of their village Rasulpur and has built his house and is living there. Previously, his family was residing in Village Bogha, P.S. Sahkot, District Jalandhar and for the last 20-25 years, they are living in Village Rasulpur. As per the record, Jaswinder Kaur wife of Jasbir Singh is resident of their village and her parental name is Parkash Kaur, as her family members call her Parkash Kaur.

During the inquiry, the police also recorded statements of Piar Kaur wife of Sarwan Singh, Sarwan Singh son of Pal Singh, Gurjit Kaur wife of Jarnail Singh, Jasbir Singh son of Sarwan Singh and Amandeep Kaur wife of Bhupinder Singh, all residents of Village Rasulpur that a case is registered against Parkash Kaur, who belongs to their family and she is evading arrest and

is absconding and is not in contact with them.

Though learned counsel for the petitioner has submitted that aforesaid persons have sworn affidavits that their signatures were taken on blank papers by the police, however, it will be a matter of trial, as the primary investigation shows that petitioner Jaswinder Kaur wife of Jasbir Singh is, in fact, the same person, who is Parkash Kaur wife of Jasbir Singh, resident of Village Rasulpur.

Therefore, I find no merit in the present petition to set aside the impugned order dated 03.06.2019 (Annexure P-8) on the ground that identity of the petitioner is in dispute.

Accordingly, the present petition is dismissed.

However, it is directed that in case, the petitioner surrenders before the trial Court and apply for regular bail, her bail application be decided within a period of three days of filing the same.

[ARVIND SINGH SANGWAN]
JUDGE

05.04.2021
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No