

In the High Court of Punjab and Haryana at Chandigarh

(103)

CRM-M No. 14171 of 2022

Date of Decision: 04.4.2022

Kaushalya Bai @ Shalo

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Ms. Anmol, Advocate for
Mr. S.P.S.Sidhu, Advocate
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. In FIR bearing No. 12 of 2.2.2022, registered at Police Station Sadar Jalalabad, District Fazilka, an offence constituted under Section 15 of the NDPS Act, is embodied.

2. The premises concerned, became raided, and, therefrom poppy husk weighing 5 kgs., became recovered.

3. Though, the learned counsel for the petitioner contends, that the premises concerned, from where the alleged recovery became effected, was jointly owned by the petitioner along with the other members of the joint family concerned. However, there is no material placed on record, in respect thereof, nor any material has been placed on record, that the particular portion of the purportedly joint premises, was not in the exclusive possession of the bail applicant-petitioner, but was in the exclusive possession of the other co-owners of the purported joint premises.

4. Be that as it may, it may not be relevant, at this stage, to either call

for the afore evidence, or to determine the validity of the afore submission, as it is stated, at the bar, by the learned State counsel, on instructions given to him, by ASI Malkeet Singh, that 5 kgs. of poppy husk, became recovered from the premises concerned. Since the weight of the afore seizure, makes it fall within the ambit of non-commercial quantity thereof. Therefore, the rigours of Section 37 of the NDPS Act, are not applicable to the weight of the afore seizure. Hence, the indulgence of anticipatory bail is to be accorded, to the bail applicant-petitioner.

5. However, at this stage, the learned State counsel submits, that since the bail applicant-petitioner is a habitual offender, thereupon there is every possibility of the bail applicant-petitioner abusing the facility of bail, as may become accorded to her. However, the vigour of the afore made submission, of the learned State Counsel, before this Court, can be mitigated, by imposition of stringent conditions, upon the bail applicant-petitioner.

6. Consequently, the bail applicant-petitioner is admitted to anticipatory bail, and, in the event of her arrest, she may not be arrested by the investigating officer concerned. However, subject to the bail applicant-petitioner furnishing personal, and, surety bonds in the sum of Rs. 50,000/- each, to the satisfaction of the arresting officer. Furthermore, the bail applicant-petitioner shall also give an undertaking before the arresting officer, that as and when she is summoned through a written Hukamnama, she shall ensure her rendering cooperation to the investigating officer.

7. In addition, in case, the bail applicant-petitioner re-indulges in criminal activities, thereupon, it is open to the investigating officer concerned to forthwith arrest the bail applicant-petitioner, and, thereafter to produce her before the learned Magistrate concerned, for the latter making an order for hers being put to judicial custody.

8. The afore observations are meant only for the disposal of the present petition, and, shall not affect the merits of the trial arising from the FIR (supra).

(SURESHWAR THAKUR)
JUDGE

April 04, 2022
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No