

CRM-M-26329 of 2022(O&M)

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

**CRM-M-26329 of 2022(O&M)
Date of Decision:15.07.2022**

Lovely

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Avtar Singh Bhatti, Advocate,for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

JASGURPREET SINGH PURI, J(Oral)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No. 0044 dated 22.04.2022, under Section 15 of NDPS Act, registered at Police Station Mukerian, District Hoshiarpur.

It has been submitted by learned counsel for the petitioner that the petitioner who is a lady has been falsely implicated in the present case and mere pendency of the other FIRs against the petitioner that too under the Excise Act would not become a bar for grant of anticipatory bail in the present case. He further submitted that the alleged quantity of 20 kg. of poppy husk was found from the house of co-accused namely Mamta Rani. He further submitted that the husband of the petitioner namely Sewa Dass was granted interim bail by this Court in *CRM-M-20057-2022* and the petitioner may also be considered for the grant of anticipatory bail.

On the other hand, Mr. Davinder Bir Singh, learned Deputy

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Advocate General, Punjab has stated that he has received an advance copy of the present petition and has also sought instructions from the concerned police official who is also present in the Court. He further submitted that it is a case where there was a recovery of 20 kg. of poppy husk although from the other co-accused namely Mamta Rani but the aforesaid Mamta Rani and the petitioner have been indulging in drugs together for long period of time and the petitioner is involved in as many as seven more cases and the details of the aforesaid seven cases are as follows:-

Sr. No.	Case (FIR) No., date, u/s	Recovery	Current Stage
1.	170, dated 09/12/2006 u/s 61.1.14 Ex Act, Police Station Mukerian	09 bottles of Illicit liquor Sentence:- Dated 18.04.07	On 18.04.2007, on pleading guilty in the court of Smt. Mandeep Kaur, JMIC, Dasuya, an order was passed for getting deposited a sum of rupees 300/- as expenses in the court on furnishing personal bond for good conduct in the sum of rupees 5000/- for a period of six months.
2.	182, dated 29.12.06 u/s 61.1.14 Ex Act, Police Station Mukerian	09 bottles of Illicit liquor Sentence:- Dated 12.04.2007	On 12.04.2007, on pleading guilty in the court of Smt. Mandeep Kaur, JMIC, Dasuya, an order was passed for getting deposited a sum of rupees 300/- as expenses in the court on furnishing personal bond for good conduct in the sum of rupees 5000/- for a period of six months.
3.	13, dated 23.01.10 u/s 61.1.14 Ex Act, Police Station Mukerian	09 bottles of Illicit liquor Sentence:- Dated 29.05.2010	On 29.05.2010, on pleading guilty in the court of Sh. Madan Lal, JMIC, Mukerian, an order was passed for getting deposited a sum of rupees 500/- as expenses in the court on furnishing personal bond for good conduct in the sum of rupees 10,000/- for a period of six months.
4.	39, dated 28.02.10 u/s 61.1.14 Ex Act, Police Station Mukerian	40 bottles of Illicit liquor Sentence:- Dated 29.05.2010	On 29.05.2010, on pleading guilty in the court of Sh. Madan Lal, JMIC, Mukerian, an order was passed for getting deposited a sum of rupees 1000/- as expenses in the court on furnishing personal bond for good conduct in the sum of rupees 10,000/- for a period of six months.

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5.	05, dated 09.01.19 u/s 61.1.14 Ex Act, Police Station Mukerian	09 bottles of Illicit liquor	Under consideration in the court
6.	80, dated 05.07.19 u/s 61.1.14 Ex Act, Police Station Mukerian	20 bottles of Illicit liquor	Under consideration in the court
7.	173, dated 04.12.2020 u/s 61.1.14 Ex Act, Police Station Mukerian	20 bottles of Illicit liquor	Under consideration in the court

He submitted that out of the aforesaid seven cases, the petitioner has already been convicted in four cases and in remaining cases, she is under trial. He further submitted that the menace of drug is at large and in order to check further drug trading the custodial interrogation of the petitioner is required so as to elicit the modus operandi and also the source of poppy husk which was recovered from the other co-accused. He further submitted that considering the antecedents of the petitioner and also considering the seriousness of the present allegations, the petitioner does not deserve the concession of anticipatory bail. He further submitted that so far as the other co-accused namely Sewa Dass is concerned, he is not at parity with the present petitioner because he has got clean antecedents and he is not involved in any other case and that was the primary reason as to why he was granted interim bail by this Court.

I have heard the learned counsel for the parties.

It is a case where the petitioner has been specifically named in the FIR and there is specific role attributable to the petitioner that she alongwith the other co-accused namely Mamta Rani were indulging in trade of poppy husk. A perusal of the FIR would show that a secret information was received by the police that the petitioner along with the other co-accused namely Mamta and her husband-Sewa Dass were having huge quantity of poppy husk and the same may be recovered from them and on the basis of the secret information, a raid was conducted. The learned

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Deputy Advocate General, Punjab stated on specific instructions that the provisions of Section 50 of the NDPS Act were also complied with and after following the proper procedure recovery was effected. The petitioner is also involved in seven more cases although under the Excise Act and the details of the same have been reproduced above and she has also been convicted in four other cases although released on personal bond for good conduct. Therefore, considering the aforesaid facts and circumstances especially the antecedents of the petitioner and the fact that the drug menace is at large in the State of Punjab, the arguments raised by the learned counsel for the State that for the purpose of qualitative interrogation, the custodial interrogation of the petitioner is required does carry weight. During the course of arguments, learned State counsel has also stated that in case the petitioner is granted bail, then she may repeat the offence in view of her antecedents. The said argument also carries weight and cannot be ignored

In view of the aforesaid facts and circumstances, no ground is made out for grant of anticipatory bail to the petitioner.

Consequently, finding no merit in the present petition, the same is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

July 15, 2022

rakesh

(JASGURPREET SINGH PURI)

JUDGE

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