

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

**CRM-M-40675-2022
Date of decision : 10.11.2022**

Sito Devi

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana.

PANKAJ JAIN, J. (ORAL)

While issuing notice of motion, the following order was
passed:-

“Prayer in this petition, filed under Section 438 of the Code of Criminal Procedure, 1973, is for grant of anticipatory bail to the petitioner, who has been booked for having committed the offences punishable under Sections 21-B and 27-A of the NDPS Act, 1985, in a case arising out of FIR No. 141, dated 04.08.2022, registered at Police Station Jakhal, District Fatehabad.

Learned counsel for the petitioner submits that on account of personal grudge and at the instance of ASI Ram Kumar, petitioner has been falsely implicated in the present case. Learned counsel further submits that earlier an FIR No. 99, dated 16.05.2022, under Section 21 of the NDPS Act, was registered at Police Station Jakhal, District Fatehabad, by showing recovery of 5.70 grams of heroin by ASI Ram Kumar from one accused Gurpreet Singh. Thereafter, said ASI Ram Kumar started demanding money from the petitioner and on not agreeing to fulfill his demands, she was nominated as an additional accused in case FIR No. 99, dated 16.05.2022. In the said case, petitioner was granted bail, vide order dated 18.06.2022 (Annexure P-2), passed by learned Additional Sessions Judge, Fatehabad.

Learned counsel for the petitioner further submits that since the petitioner was released on bail in the aforementioned case, on finding another chance, same police officer, i.e. ASI Ram Kumar, again involved the petitioner as an additional accused in the present case, i.e. FIR No. 141, dated 04.08.2022, under Sections 21-B and 27-A of the NDPS Act. This time recovery of 5.50 grams of heroin was shown from accused Gurvinder Singh @ Kaku and on the basis of his disclosure statement, petitioner has been again dragged in the present case.

Notice of motion.

On asking of the Court, Mr. Ashish Yadav, Additional Advocate General, Haryana, who is present in the Court, accepts notice on behalf of the respondent-State and prays for some time to seek instructions.

Adjourned to 10.11.2022.

In the meanwhile, the petitioner is directed to join the investigation as and when required to do so by the Investigating Agency. In the event of her arrest, the petitioner shall be released on ad-interim bail, subject to her furnishing bail bonds to the satisfaction of the Arresting Officer. The petitioner shall also abide by all the conditions laid down under Section 438(2), Cr.P.C.”

Today, learned State counsel, on instructions from ASI Ram Kumar, submits that the petitioner has joined investigation and is no longer required for custodial interrogation.

Counsel for the petitioner submits that in both the cases, recovery is marginally higher than the small quantity as notified under the Act and the petitioner has been nominated on the basis of disclosure made by co-accused.

Keeping in view the totality of the circumstances and the fact that it is the same investigating officer, who has nominated the petitioner on the basis of disclosure statements in two different cases and keeping in view the quantity of contraband recovered from other co-accused, the present petition is allowed.

Interim order dated 07.09.2022 passed by this Court is made absolute, subject to the following conditions in addition to the conditions as enumerated under Section 438(2) Cr.P.C.:-

- (i) The petitioner shall not influence with Investigating Officer in any manner whatsoever.
- (ii) The petitioner undertakes not to tamper with any evidence and to induce threat or promise directly or indirectly to any witness acquainted with the facts of the present case.
- (iii) In case the petitioner is arraigned as an accused in any case under the provisions of NDPS Act, he shall bring to the notice of the I.O. of the present case within a week from the date of knowledge of such FIR.
- (iv) In case the State finds that the petitioner has been arraigned as an accused in any other case under NDPS Act, State is free to apply to this Court for cancellation of the present bail in case it deems fit and proper.
- (v) The petitioner shall not change his contact number.
- (vi) The petitioner shall surrender his passport, if any, before the Illaqa Magistrate/Duty Magistrate concerned within 03 days from the receipt of certified copy of this order.

Petition stands disposed off.

(PANKAJ JAIN)
JUDGE

10.11.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No