

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

114

CRM-M-42063-2019
Date of Decision: 31.05.2022

MANDEEP KAUR

.....PETITIONER

Versus

STATE OF PUNJAB AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Umesh Aggarwal, Advocate
for the petitioner.

Mr. Harpreet Singh Multani, AAG, Punjab.

Mr. Gaurav Pathak, Cental Govt. Counsel,
for respondent No. 3-NIA.

Mr. Suvish Buidlish, Sr. Standing Counsel with
Mr. Gagandeep Singh Malhotra, Advocate and
Mr. Sagar Ratu Saria, Advocate
for respondent No. 4

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner has a registered deed of conveyance, executed in her favour, by the offender concerned, therefore the petitioner becomes the lawful owner of the petition property. The registered deed of conveyance is appended as Annexure P-1, with the instant petition.

2. The deceased husband of the petitioner, is alleged to become arrayed, as an accused in an NDPS matter. However, though in the instant petition, it is averred that, in the FIR drawn against the deceased husband of the petitioner, rather for an offence punishable under the NDPS Act, he became granted the indulgence of bail, during the pendency of trial, as

became entered into, by the learned trial Judge concerned, qua the FIR

concerned. However, neither in the petition, nor in any documents appended with the petition, there are in respect thereto, any clear or candid echoings, nor there is any order of bail, as became granted to the deceased husband of the petitioner, during, the pendency of the trial, as, became entered into in respect of the petition FIR, nor, there is any order of the learned trial Judge concerned, rather declaring as abated, the proceedings, as became drawn against the deceased husband of the petitioner, in consequence of his expiring during the pendency of any trial concerned.

3. The petitioner though, on the basis of the above registered deed of conveyance, is the owner of the petition house, but the respondents' concerned admittedly put locks on the main gate of the premises, hence making it difficult for the petitioner to ingress thereinto. The above factum is not contested by the counsels appearing on either side. Therefore, the petitioner claims, that the premises concerned, be ordered to be unlocked, and, also claims a relief, that the keys of the locks, as, installed on the door of the premises, rather by the authorities concerned, be released to her by them.

4. A perusal of the reply, prepared on behalf of co-respondent No.4, copy whereof, has been placed before this court, reveals, that the deceased husband of the petitioner was involved in the trafficking of heroin. The seizure, as made from the accused concerned, was carrying a weight of 584.42 kgs of heroin. A reading of paragraph 13 thereof, as becomes extracted hereinafter, reveals that the customs officials, had made a searching raid upon the premises concerned, rather, on a reasonable belief, that the documents or other articles, relating to the above incriminatory seizure, rather becoming concealed in the premises concerned. However, on

the arriving of the customs officials at the premises concerned, they found that the main gate of the house was locked. Consequently, the locksmith was called on the spot, and, the lock of the gate was opened, and, the afore search of the premises was made but nothing incriminating was found.

“13. That on 07.08.2019, a team of Customs officials reached the residential premises # 392, New Golden Avenue, Ram Tirath Road, Amritsar along with two independent witnesses to conduct a search of the premises under the provisions of Section 42 of the NDPS Act 1985 on the reasonable belief that documents or other articles which may furnish evidences in the seizure of 532.96 Kgs of narcotic drugs i.e. Heroin seized on 29.06.2019 are concealed in the said premises. On reaching the said premises, the main gate of the house was found locked. Accordingly, a locksmith was called on the spot and the lock of the gate was opened and thorough search was conducted and nothing incriminating was found at the premises.”

5. Moreover, it is also averred in paragraph 14, that since after the departure of the custom officials, from the premises concerned, neither the petitioner herein, was then available, nor any of the occupants were then available, nor came forward, for the safe keeping of house, and, nor also, in respect of handing over the keys of the locks, thereupon, rather, the locks of the premises, are stated to be, installed thereons, in the presence of the independent witnesses of the locality, and, also in the presence of the local police.

6. It is also disclosed in paragraph 15, of the reply, on affidavit, that no damage was caused to the house, and, property of the petitioner. However, the learned counsel appearing for the customs department, and, also, the learned counsel for the NIA, both make a statement, before this court that, as of now, the keys of the locks, carried on the front gate, of the premises, are lying in the custody of NIA.

7. Both also fairly submit before this court that, as and when, the petitioner claims the returnings to her, of the keys concerned, thereupon, they will be returned to her.

8. Consequently, the authorities concerned, who are holding the possession, as of now, of the keys of the premises concerned, are directed to within a week, from today, release them to the petitioner. However, since it is stated at the bar, by the learned Counsel for the NIA, that still there can be a possibility of the acquisition of the petition property, rather being a sequel of moneys' becoming derived by her deceased husband, from trafficking heroin. Therefore, he prays that, as and when required, qua searches becoming necessitated for ensuring the emergences of evidence qua the above, thereupon, for facilitating the above, a condition be imposed upon the petitioner that, in case the above becomes necessitated, she would make an undertaking before the authorities concerned, that she shall permit the raids being made by the NIA, and, shall also, participate in the relevant proceedings, as may become drawn for confiscation of the petitioner's property arising from its acquisition being purported from narco terrorism financing/finances. The above submission is accepted, and, the release of keys to the petitioner, is made subject to hers tendering the afore undertaking before the authorities concerned.

9. Disposed of with the above directions.

(SURESHWAR THAKUR)
JUDGE

31.05.2022
kavneet singh

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