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

CRM-M-4719-2023

Date of Decision: 11.04.2023

Sushil @ Nino

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Satish Saini, Advocate
for the petitioner.

Mr. Ram Kumar Singla, DAG, Haryana.

HARSH BUNGER, J. (Oral)

Prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.595 dated 14.11.2022 (Annexure P-1), registered under Section 21-B of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Sadar Jind.

On 16.02.2023 the following order was passed by this Court :-

“Present petition under Section 438 of the Code of Criminal Procedure is filed for grant of anticipatory bail to the petitioner in case FIR No.595 dated 14.11.2022 (Annexure P-1), under Section 21-B of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar Jind.

The FIR in question was registered on the basis of a secret information received from a secret informer, who stated that one Reema, wife of Makku, resident of Ashrafgarh, District Jind, who used to sell heroin, would be coming from Village Ashrafgarh to the bypass, wearing a red coloured suit, to sell heroin and in case, the barricades are set up on the road leading from bypass to Village Ashrafgarh then she can be apprehended along with heroin. Upon getting such information, the barricades were laid and she was apprehended by the Assistant Sub Inspector along with his fellow colleagues. After completing the formalities, Mr.

Raj Kumar Nain, XEN, PWD (B&R), Jind, being the Duty Magistrate, was called at the spot and Reema was produced before him. Thereafter, a lady Constable, namely Sunita, conducted the personal search of said Reema, from whom, white coloured bag was recovered and after opening the same, a brown coloured substance in a black coloured polythene was found, which was heroin, and upon weighing the same, it was found to be 16.20 grams with polythene.

Learned counsel for the petitioner submits that the petitioner was initially not named in the present FIR (Annexure P-1) and she has been falsely implicated in this case on the basis of disclosure statement dated 15.11.2022 (Annexure P-2) of co-accused, namely Reema, from whom 16.20 grams of Heroin/Chitta was recovered, which is non-commercial in nature and rigours of Section 37 of the Narcotic Drugs and Psychotropic Substances Act are not attracted. Learned counsel further submits that the petitioner was neither apprehended at the spot of alleged recovery nor any recovery was alleged to have been effected from the petitioner. It is further contended that co-accused Reema has already been granted the concession of regular bail by the Court of Additional Sessions Judge, Jind, vide order dated 12.01.2023. Learned counsel for the petitioner submits that the petitioner is ready and willing to join the investigation as and when required by the Investigating Agency or as directed by this Court/trial Court.

Learned State counsel opposes the plea of petitioner on the ground of seriousness of the offences. However, he fairly concedes the fact that co-accused, namely Reema, has already been granted the concession of regular bail by the Court of Additional Sessions Judge, Jind, vide order dated 12.01.2023.

List on 11.04.2023.

In the meanwhile, in the event of arrest of petitioner, she shall be released on ad interim bail to the satisfaction of the Investigating/Arresting Officer. However, she shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner submits that pursuant to the aforesaid order, the petitioner has joined the investigation.

Learned State counsel on instructions from SI Krishan Kumar has not disputed the aforesaid fact of joining of investigation by the petitioner and submits that his custodial interrogation is not required at this stage.

Heard learned counsel for the parties.

Since the petitioner has joined the investigation and his custodial interrogation is not required at this stage, the present petition is allowed and the ad-interim order dated 16.02.2023 passed by this Court is made absolute.

However, the petitioner shall continue to join the investigation as and when required to do so and abide by all the conditions laid down under Section 438(2) Cr.P.C.

It is made clear that if the petitioner fails to comply with any of the bail conditions laid down under Section 438(2) Cr.P.C, the State would be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioner.

Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for anticipatory bail at this stage.

The petition is accordingly disposed of.

11.04.2023
Himani

(HARSH BUNGER)
JUDGE

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