

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

**CRM-M-23344-2023 (O&M)
Date of decision : 28.08.2023**

Charan Kaur @ Charno Kaur

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: None for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition under Section 438 of the Code of Criminal Procedure has been filed for grant of pre-arrest bail to the petitioner in FIR No.54 dated 02.04.2023, under Sections 21/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Bhawanigarh, District Sangrur.

(2) Allegations are that co-accused Sukhwinder Kaur @ Sukho was found in possession of 10 gram *Chitta (Heroin)* without any license, allegedly supplied by the petitioner for selling to her, and petitioner has been nominated on the basis of disclosure, made by aforesaid co-accused.

(3) The Coordinate Bench, vide order dated 09.05.2023, granted interim bail to petitioner and the same reads as under:-

“The petitioner has approached this Court praying for grant of anticipatory bail in a case FIR No.54 dated 02.04.2023, registered under Sections 21/29 of NDPS Act, 1985 at Police Station Bhawanigarh, District Sangrur.

It has been contended by learned counsel for the petitioner that neither the petitioner was arrested on spot nor there is any recovery made from her. It is submitted that the alleged recovery of 10 grams of heroin was effected from co-accused Sukhwinder Kaur. He submits that during the investigation, the petitioner has been implicated in this case on the basis of the disclosure statement made by co-accused Sukhwinder Kaur. He submits that disclosure statement made by the co-accused is not even an admissible evidence. He submits that even otherwise recovery of 10 grams of heroin has been effected in this case, which falls under the non-commercial quantity. He fairly submits that the petitioner has been falsely and frivolously implicated by the same Police Station in another FIR No.45 dated 06.03.2023, registered under Sections 21/29- of NDPS Act, 1985, in which she has already been granted bail vide order dated 12.04.2023. He further submits that in the overall facts and circumstances, no case for custodial interrogation is made out, however, the petitioner is ready to join the investigation, if her prayer for grant of anticipatory bail is considered.

Notice of motion.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab, accepts notice.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation before the Investigating Agency/Officer. She shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

- (i) *That the petitioner shall make herself available for interrogation by a police officer as and when required to do so.*
- (ii) *That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.*
- (iii) *That the petitioner shall not leave India without prior permission of the court.*

State is directed to file status report.

Adjourned to 28.08.2023. ”

(4) Learned State Counsel, on instructions from ASI Bhagwant Singh, submits that petitioner has joined investigation and as on today, her custodial interrogation is not required.

(5) In view of above, interim order dated 09.05.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

(6) It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

(7) The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.

(8) Disposed off accordingly.

August 28th, 2023
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>