

CRM-M-25840 of 2023

2023:PHHC:074616

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25840 of 2023

Date of decision: 22.05.2023

Neetu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. B.S. Beniwal, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, DAG, Haryana.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.0206 dated 09.04.2023 under Sections 20/27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station City Fatehabad, District Fatehabad.

2. According to the prosecution, on 09.04.2023 co-accused Avinash was apprehended with conscious possession of 700 grams *ganja*, which was allegedly purchased by him from the petitioner.

3. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. He further submits that petitioner has been nominated as an accused on the basis of disclosure statement of co-accused, which is *per se* not admissible in evidence and no recovery has been effected from her. He further submits that nothing is to be recovered from the

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petitioner. He further submits that petitioner is ready and willing to join the investigation.

4. On receipt of advance copy of the petition, learned State counsel has opposed the prayer for grant of anticipatory bail to the petitioner by submitting that petitioner is a habitual offender and her custodial interrogation is necessary.

5. I have heard learned counsel for the parties and perused the record.

6. In ***State of Haryana v. Samarth Kumar, 2022 Live Law (SC) 622***, the Hon'ble Supreme Court held that the accused is not entitled for anticipatory bail only on the ground that no recovery was effected from the accused and he has been implicated on the basis of disclosure statement.

7. In ***Samrath Kumar's*** case (supra) the Hon'ble Supreme Court observed as under:-

“In cases of this nature, the respondent may be able to take advantage of the decision in Tofan Singh vs State of Tamil Nadu (supra), perhaps at the time of arguing the regular bail application or at the time of final hearing after the conclusion of the trial. To grant anticipatory bail in case of this nature is not really warranted. Therefore, we are of the view that the High Court fell into an error in granting anticipatory bail to the respondent.”

8. Moreover, petitioner is a habitual offender as she is involved in six more cases. In para 8 of the petition it has been stated that the petitioner is involved in six other cases, however, the description regarding offences has not been mentioned, which amounts

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to concealment on the part of the petitioner as complete information with regard to six cases has not been provided in the petition.

9. In ***Bal Krishan Fauzdar v. State of Haryana 2018 (1) RCR Criminal 789***, it is held by a Co-ordinate Bench of this Court in para No. 8 as under: -

“.....It is well settled that custodial interrogation is more elicitation oriented since a person, who is couched in comparative safety of pre-arrest bail would certainly not disclose all the facts within his knowledge which would be inculpatory for him. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.”

10. The law laid down in these judgments is fully applicable to the facts of the case in hand.

11. In view of the above, petitioner is not entitled to concession of anticipatory bail as her custodial interrogation is required.

12. Dismissed.

13. Nothing observed hereinabove shall be construed as an expression of opinion on the merits of the case.

22.05.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No