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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46907-2023
Date of decision: 09.10.2023

KULWANT KAUR @ BAGHAN

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Balbir Kumar Saini, Advocate
for the petitioner.

Mr. Ramdeep Partap Singh, Senior DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.181, dated 15.08.2023, under Sections 21, 22, 27 and 29 of NDPS Act, registered at Police Station Dharamkot, District Moga, Punjab.

2. Learned counsel for the petitioner submitted that the petitioner is a lady of the age of 54 years and she has been falsely implicated in the present case. He further submitted that the allegation against the petitioner was that she along with one co-accused, namely, Satnam Singh @ Saini, who is the person living at her house and taking care of the animals of the petitioner used to supply heroin/intoxicant tablets to the customers of the petitioner and although the petitioner has been named in the FIR but no recovery was made from her,

whereas 200 loose tablets from co-accused, namely, Teja Singh and 135 loose tablets from other co-accused, namely, Satnam Singh @ Saini were recovered by the police. He further submitted that the petitioner is involved in two more cases under the NDPS Act but she is already on bail in those cases and therefore, she may be considered for the grant of anticipatory bail.

3. On the other hand, Mr. Ramdeep Partap Singh, Senior DAG, Punjab submitted that notice of motion was issued by this Court on the last date of hearing and now he has sought instructions from the officer concerned. He further submitted that it is a case where a secret information was received by the police that aforesaid co-accused, namely, Satnam Singh @ Saini, who takes care of the animals of the present petitioner used to consume heroin/intoxicants tablets and supply the same to the customers of the petitioner and the aforesaid co-accused Satnam Singh @ Saini had gone to the house of another co-accused, namely, Teja Singh to supply him intoxicant tablets and aforesaid Teja Singh used to supply said intoxicant tablets to high level persons. He further submitted that the petitioner is a habitual offender and is involved in two more cases under the NDPS Act while referring to para No.20 of the present petition i.e. in FIR No.76 dated 15.04.2022, under Sections 21 and 22 of the NDPS Act, registered at Police Station Dharamkot, District Moga, wherein there was an alleged recovery of 15 grams of *heroin* from the petitioner although she is already on bail in the said case and another FIR No.7, dated 07.01.2023, under Sections 21 and 22 of the NDPS Act, registered at Police Station Dharamkot, District Moga, wherein there was an alleged recovery of 10 grams of *heroin* and 50 loose tablets containing “*Olanzaoine*” salt from the petitioner and she is also on bail

in the said case. He further submitted that even if there was no recovery from the present petitioner in the present case but there is a direct role attributed to the petitioner as per the FIR and she has been named in the FIR because the aforesaid co-accused, namely, Satnam Singh @ Saini is only working for her and she is the main person who supplies heroin/intoxicants tablets to her customers. He further submitted that in view of the aforesaid facts and circumstances and the fact that the menace of drugs is at large in the State of Punjab, the custodial interrogation of the petitioner would be required so as to ascertain the truth and the source from where she was getting the heroin/intoxicants tablets and it is only by way of custodial interrogation that the source can be ascertained.

4. I have heard the learned counsel for the parties.

5. It is a case where the allegation against the petitioner, who is named in the FIR is that she along with co-accused, namely, Satnam Singh @ Saini used to supply intoxicant tablets to different customers and she is the main person who supplies intoxicant tablets. The petitioner is stated to be a habitual offender and involved in two more cases under the NDPS Act as aforesaid. The objection which has been raised by the learned State counsel that in view of the fact that the petitioner is a habitual offender and the allegation was that she supplied heroin/intoxicants tablets to various customers, her custodial interrogation is required for the purpose of elicitation of truth and qualitative investigation carries weight and cannot be ignored. The Hon'ble Supreme Court in *State represented by CBI versus Anil Sharma, 1997 (7) SCC 187* also observed that depending upon the facts and circumstances of a given case, in

case it is so required that for the purpose of elicitation of truth and for qualitative investigation the custodial interrogation is required, then the same can be done so that the legitimate investigation can be completed in a proper manner and so that it is not scuttled in the initial stages.

6. Undoubtedly, the menace of drugs is at large in the State of Punjab and therefore it is very necessary to ascertain the source from where the intoxicant tablets were being supplied to the petitioner. It is not a case that the petitioner is a first time offender, whereas it is a case where the petitioner is involved in two more cases under the NDPS Act in which there was alleged recovery of *heroin* although the petitioner is already on bail in those cases. Therefore, this Court is of the view that considering the gravity of facts and circumstances of the present case, the petitioner does not deserve the concession of anticipatory bail.

7. Consequently, finding no merit in the present petition, the same is hereby dismissed.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

09.10.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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