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

CRM-M-57471-2022 (O&M)

Date of Decision: 10.01.2023

BALWINDER KAUR @ BAWI

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Ms. Bhupinder Kaur, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. AG, Punjab.

HARSH BUNGER, J. (Oral)

Prayer in the present petition filed under Section 438 Cr.P.C is for grant of concession of anticipatory bail to the petitioner in case FIR No.248 dated 20.09.2022 registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Sultanpur Lodhi, District Kapurthala.

On 09.12.2022, the following order was passed by this Court :-

“Prayer in this petition, filed under Section 438 of the Code of Criminal Procedure, 1973, is for grant of anticipatory bail to the petitioner, in case FIR No.248 dated 20.09.2022, registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Sultanpur Lodhi, District Kapurthala.

Learned counsel for the petitioner, inter alia, contends that the petitioner is a lady of 42 years and has falsely been implicated in the present case on the basis of disclosure statement of main accused-Sarabjit Singh @ Romio, from whom, the alleged recovery of 260 grams of intoxicant tablets

has been effected. It is further submitted that even as per FIR, neither the petitioner was present at the spot nor any recovery has been effected from her and even the report of Forensic Science Laboratory has not been received till date, yet the bail application moved by her under Section 438 of the Code of Criminal Procedure has wrongly been declined by the learned Judge, Special Court, Kapurthala, vide its order dated 22.11.2022 (Annexure P-2). Learned counsel further submits that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency or as directed by this Court/trial Court.

Notice of motion.

On the asking of the Court, Mr. Subhash Godara, Additional Advocate General, Punjab, who is present in the Court, accepts notice on behalf of the respondent-State and opposes the petitioner's prayer for interim anticipatory bail on the ground of seriousness of offence.

Keeping in view the fact that no recovery was effected from the petitioner and her name had figured in a disclosure statement of accused-Sarabjit Singh @ Romio, from whom the alleged recovery has been effected; this Court is inclined to grant interim bail to the petitioner.

List on 10.01.2023.

In the meanwhile, in the event of arrest of the 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.

A copy of the complete paper book be supplied to learned State counsel by the learned counsel for the petitioner during course of the day."

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

Learned State counsel on instructions from ASI Makhan Singh has not disputed the aforesaid fact of joining the 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 09.12.2022 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 directions made above and the bail conditions, 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.

10.01.2023

Amandeep

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No