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2023:PHHC: 081446

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

CRM-M-60424-2022

Date of Decision: 02.06.2023

SITO RANI

..... PETITIONER

VS

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present : Mr. Hitesh Chopra, Advocate for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

GURBIR SINGH, J. (ORAL)

This petition is filed under Section 438 Cr.P.C for grant of anticipatory bail in FIR No. 169 dated 12.11.2022 under Section 21 NDPS Act registered at Police Station Mamdot.

The case was registered on the basis of written information sent by Inspector Lekh Raj that he was on patrolling and was present at Bus Stop Hazara Singh Wala. A secret information was imparted to him that Sukhchain son of Balwinder Singh and Balwinder Singh son of Kashmir Singh residents of Rau Ke Hathar Police Station Mamdot were arrested on the previous date by the Amristar Police in connection with recovery of heroin from them. Gurmit @ Meeto Kaur wife of said Balwinder Singh could have been in movement and she might have concealed heroin near by her house or near submersible motor installed in their house. The request was also made to send the gazetted Officer of the said area. The police conducted raid and 500 grams of heroin was recovered underneath the heap of paddy straw lying near the house of petitioner.

Learned counsel for the petitioner submits that husband and son of the petitioner have already been arrested. The name of the petitioner

is Sito Rani and is not Gurmit @Meeto Kaur whereas FIR is registered against Gurmit @ Meeto Kaur. The petitioner was neither present in her house nor around her house or in the plot where recovery has been effected. The recovery if any cannot be considered in conscious possession of the petitioner. He has relied upon *Mohan Lal Vs. State of Rajasthan (2015) 6 SCC 222* and *Sarija Ban @ Janarthani @ Janani and another Vs. State through Inspector of police reported in (2004) 12 SCC 266*. The raid was conducted on the secret information. No witness from public was associated. The petitioner has no concern with the recovery in this case. The petitioner is not involved in any other case. The mandatory provision of Section 42 of NDPS is not followed in this case.

Learned State counsel has opposed the request made by the learned counsel for the petitioner. He submits that recovery in this case is of 500 grams heroin which is of commercial quantity. The son and husband of the petitioner were arrested on the previous day of recovery in this case and heroin was also recovered from them. The custodial interrogation of the petitioner is required to know the source from whom the recovered heroin was procured.

Heard.

It is a case where commercial quantity of heroin has been recovered. It was recovered underneath the heap of paddy straw near the house of the petitioner. The police on the basis of secret information after sending written information in this case raided the place and effected recovery in presence of gazetted officer having jurisdiction in the area. The son and husband of the petitioner were admittedly arrested on the previous

day and heroine was also recovered from them. Mere technicalities at the stage of investigation are not required to be seen. It is to be seen during trial of the case if Section 42 of NDPS Act is followed or not. It is duty of the Investigating Officer to bring the truth and to collect each and every evidence. In view of the heavy recovery of heroine, the custodial interrogation of the petitioner is necessary, so it is not the case where anticipatory bail can be granted.

Petition stands dismissed.

(GURBIR SINGH)
JUDGE

02.06.2023
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No