

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

115.

CRM-M No.13628 of 2024 (O&M)
Date of Decision:18.03.2024

Amarjit Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jagmohan Singh Bhatti, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 482 Cr.P.C. seeking a direction to be issued to the respondent-State to look into the representation submitted by the petitioner to respondent No.3 on 06.02.2024 (Annexure P-1) and during the pendency of said representation, release the husband of the petitioner, who is detained illegally and without following the due course established by law.
2. Learned counsel appearing for the petitioner *inter alia* contends that in the facts and circumstances of the case, the veracity of the allegations are required to be examined by a senior police officer, as the husband of the petitioner has been falsely implicated and the raiding party is liable for disciplinary action and during the pendency of the present petition, the husband of the petitioner is required to be released. It is further contended that on 21.01.2024 at about 11.30 PM, local police along with 8-10 persons including ladies jumped the wall of the house of the petitioner and a raid was conducted without any warrant or order, however, nothing objectionable was found from the house. They even damaged the CCTV cameras installed in their house. The raiding party took away the valuable items from the house including currency of Rs.1,90,000/- and 830 pounds of England currency, one

Rado wrist watch, one Iphone, five tolas of gold and rifles of 315 bore & 32 bore. They also took away their Fortuner car bearing registration No.PB02PU5555. The details of recovery memo were not prepared and never handed over to the petitioner and she thereafter learnt that opium has been planted on her husband. Reliance in this regard is placed upon the judgment passed by the Hon'ble Supreme Court in ***K.S. Puttaswamy Vs. Union of India (2017) 10 SCC 1***. It is further contended that the entire police action falls under Section 46 Cr.P.C. Further no grounds of detention has been provided to the petitioner and reliance in this regard is placed upon the judgment of the Hon'ble Supreme Court passed in ***D.K. Basu Versus State of West Bengal (1997 (1) SCC 416***. No notice under Section 41-A Cr.P.C. is given and the police action is violative of the directions issued by the Hon'ble Supreme Court in ***Arnesh Kumar Vs. State of Bihar AIR 2014 SC 2756***. Reliance is also placed upon the judgment passed by the Hon'ble Supreme Court in ***Mrs. Maneka Gandhi Vs. Union of India (1978) 1 SCC 248*** and ***Vishaka and others Vs. State of Rajasthan and others AIR 1997 SC 3011***.

3. Per contra, Mr. Subhash Godara, Addl. A.G., Punjab, who appears on advance notice, on instructions from ASI Lakhbir Singh submits that the present petition is totally misconceived and this Court cannot examine the probable defence set up by the petitioner in the present petition. It is a matter of trial and huge quantity of 3 kg of opium is recovered from the husband of the petitioner and the co-accused, which falls within the ambit of commercial quantity. Along with the contraband, some fire arms were also recovered from the husband of the petitioner. It is further contended that the investigation is still going on and husband of the petitioner is a habitual offender, as he was convicted in a case under the NDPS Act. The petitioner has not come to this Court with clean hands as the FIR, which is

registered against the husband of the petitioner has not been annexed with the present petition.

4. Having heard learned counsel for the parties and after going through the record of the case, I do not find any force in the arguments advanced by the counsel appearing for the petitioner. The contentions raised by the petitioner can only be appreciated by the learned trial Court, as the disputed question of fact cannot be determined by this Court by invoking power under Section 482 Cr.P.C. There is no merit in the present petition, however, the petitioner would be at liberty to raise all pleas raised in the present petition at an appropriate stage during the course of trial.

5. With the aforesaid observations, the instant petition stands dismissed.

6. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

March 18, 2024
Pankaj*

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