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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-28021-2024 (O&M)
Date of decision: 08.07.2024

Jaswinder Kaur @ Binder ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sumit Dua, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 438 Cr.P.C., is for grant of anticipatory bail to the petitioner in FIR No. 88 dated 01.04.2024, registered under Sections 21(b) and 29 (added later on) of the NDPS Act, 1985 at Police Station Phillaur, Jalandhar.
2. Brief facts of the case relevant for the disposal of the present petition are that on 01.04.2024, co-accused Lakhwinder Singh @ Sonu was arrested by the police and recovery of 12 grams of heroin was effected from him. The petitioner has been nominated in this case on the basis of the disclosure suffered by the said co-accused. Apprehending her arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Judge, Special Court, Jalandhar but the same had been dismissed, vide order dated 14.05.2024.
3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. No subsequent recovery of contraband

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has been effected from her. The petitioner was not found at the spot and has been involved in this case on the basis of the disclosure statement made by the co-accused, which is not admissible in law. The petitioner is ready to join the investigation. Co-accused Lakhwinder Singh @ Sonu has been granted benefit of regular bail. No useful purpose would be served by detaining her in custody. Therefore, it is urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel, who has advance notice of the petition, has argued that though the petitioner has been nominated in this case on the basis of the disclosure suffered by the co-accused but the petitioner is involved in two more cases under the NDPS Act and her criminal antecedents are not clean. She is a habitual offender and a part of drug racket. Custodial interrogation of the petitioner is must for proper investigation in the matter as well as for effecting further recovery of contraband, if any. It is, thus, argued that the petition is liable to be dismissed.

5. I have learned counsel for the parties at considerable length and have also perused the material placed on record.

6. The petitioner has been nominated in this case on the basis of the disclosure made by co-accused Lakhwinder Singh @ Sonu, from whose custody, recovery of 12 grams of heroin was effected. The petitioner is stated to be involved in two more cases under the NDPS Act. Obviously, her criminal antecedents are not clean. She has indulged in the present case while being on bail in aforesaid two other cases under the NDPS Act. Her further involvement in similar cases and her complicity in the present case cannot be ruled out at this stage. The custodial interrogation of the petitioner is required for proper

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investigation in the matter. The well settled proposition of law is that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses. The powers under Section 438 of Cr.P.C. are to be exercised in extraordinary and sparing circumstances. More so, custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of Cr.P.C. Many useful information can be disinterred during custodial interrogation. It has also to be seen that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. It is also a matter of discretion to grant or not to grant pre-arrest bail. Keeping in view the discussion as made above, I am of the considered opinion that no extraordinary or sparing circumstance entitling the petitioner to seek concession of pre-arrest bail has been made out rather her custodial interrogation is required for thorough investigation in the matter by the police. Accordingly, finding no merit, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

08.07.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes