





Kaur 1533/Sangrur, PG Inder Singh 47839 with laptop and printer in official vehicle PB- 13-AW 4121 driven by Sepoy Varinder Singh 1829/Sangrur were going from Maniana Village towards inter-state border Tohana (Haryana) then around 1:30 PM when police party reached near wine shop in the area of village Maniana then from front two ladies were spotted, who were coming from Tohana side and they were carrying black plastic bags in their hands, but on seeing the police party ahead, both the above ladies thrown their plastic bags in nearby field and tried to run towards the fields. That from said thrown plastic bags by above mentioned ladies Sulfa was visible. Then I, ASI along with the help of lady co-official apprehended them and asked their name and whereabouts. That out of them first lady disclosed her name as Kirana Devi wife Saimpi Son of Manga, resident of village, Mukand-pura, police station city Samna but at present residing at Indra Basti Stadium Road, Police station city Sunam and another lady disclosed her name as Sukhwinder Kaur wife of Kaka Singhson of Babu Ram, resident of Baharla, Bera, Grain market Sunam, police station Sunam, District, Sangrur. Then I ASI checked the plastic bag thrown by Kirana Devi and found Sulfa then I ASI weighted recovered sulfa with computer scale which come to 1 kg 350 grams, including the weight of plastic bag. Thereafter I ASI put the recovered sulfa 1 KG 350 grams in one plastic container and prepared the bulk parcel. Thereafter, I ASI checked the plastic bag thrown by Sukhwinder Kaur and out of same also Sulfa found. Thereafter, ASI weighted recovered sulfa with computer scale which come to 1 kg 350 grams, including the weight of plastic bag. Thereafter I ASI put the recovered sulfa 1 KG and 350 grams into one plastic bag further put the same into the cloth bag and prepared the bulk parcel. Thereafter | ASI sealed both bulk parcel with my seal bearing prefix GS further sample of seal was prepared separately. That after use seal was handover ASI Malkit



Singh 159/Sangrur. Then I ASI took both bulk parcels along with sample seal into police possession through separate recovery memos. That above mentioned Kiran Devi and Sukhwinder Kaur by keeping Sulfa in their possession found to have committed offence under section 20/61/85 of NDPS Act. That ruq is prepared and send through PHG Inder Singh 47839 to police station after the registration of the FIR against Kiran Devi and Sukhwinder Kaur. That further number of FIR to be informed, control room be also informed and special reports be issued. That I SI along with co-police official are present on spot and busy in investigation, area Maniana, Time 03.10 PM, sd/-Gurbhej Singh ASI, PS Moonak, dated 24.04.2024.”

4. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case. As per the case set up by the prosecution, Kiran and Sukhwinder Kaur, co-accused were arrested by the police and 2 kg and 700 grams of Sulfa/contraband was recovered from the co-accused. He further contends that the petitioner was neither arrested at the spot nor any recovery was effected from her. Rather the petitioner has been nominated as an accused only on the basis of the disclosure statement made by the co-accused.

5. On the other hand, learned State counsel, while referring to the reply filed by DSP, Sub-Division Moonak submits that the present petitioner is a habitual offender. He further contends that 7 FIRs under various provisions of NDPS Act were ordered to be registered against the present petitioner and the petitioner has already been convicted in four cases, out of above-said cases. He further contends that during the course of investigation, sufficient incriminating evidence has been collected by the police, warranting the arrest of the



petitioner. Apart from that, learned State counsel has also relied upon the law laid down by the Hon'ble Supreme Court in the matter of ***“State of Haryana Vs. Samarth Kumar”***, 2022 LiveLaw (SC) 622, wherein the Hon'ble Supreme Court held as follows:-

“4. The High Court decided to grant pre-arrest bail to the respondents on the only ground that no recovery was effected from the respondents and that they had been implicated only on the basis of the disclosure statement of the main accused Dinesh Kumar. Therefore, reliance was placed by the High Court in the majority judgment of this Court in Tofan Singh v. State of Tamil Nadu reported in (2021) 4 SCC 1.

5. But, it is contended by the learned Additional Advocate General appearing on behalf of the State of Haryana that on the basis of the anticipatory bail granted to the respondents, the Special Court was constrained to grant regular bail even to the main accused-Dinesh Kumar and he jumped bail. Fortunately, the main accused-Dinesh Kumar has again been apprehended. According to the learned Additional Advocate General, the respondent in the second of these appeals is also a habitual offender.

6. Learned counsel appearing on behalf of the respondent in the first of these Appeals contends that the State is guilty of suppression of the vital fact that the respondent was granted regular bail after the charge-sheet was filed and that therefore, nothing survives in the appeal. But, we do not agree.

7. The order of the Special Court granting regular bail to the respondents shows that the said order was passed in pursuance of the anticipatory bail granted by the High Court. Therefore, the same cannot be a ground to hold that the present appeals have become infructuous.



8. *In cases of this nature, the respondents may be able to take advantage of the decision in Tofan Singh v. State of Tamil Nadu (supra), perhaps at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial.”*

6. I have heard learned counsel for the parties and perused the record.

7. In the present case, it is apparent from the record that the petitioner was involved in 7 other cases under NDPS Act and she has already been convicted in four cases by various courts. In the considered opinion of the Court, the custodial interrogation of the petitioner will be required.

8. No ground is made out to grant the concession of anticipatory bail to the petitioner and the same is ordered to be dismissed.

(N.S.SHEKHAWAT)
JUDGE

18.07.2024.
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No