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

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CRM-M-31109-2024 (O&M)
Date of decision: 04.07.2024

Sanju Devi ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Tushar Gautam, Advocate
for the petitioner.

Mr. Arjun Lakhanpal, Addl. A. G., Haryana.

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. 323 dated 08.12.2022, registered under Sections 18 and 29 of the NDPS Act, 1985 at Police Station Ambala Sadar, District Ambala.
2. Brief facts of the case relevant for the disposal of the present petition are that on 08.12.2022, co-accused Ashok Sawhney and Amlesh Sawhney were arrested by the police and recovery of 03 kgs. 10 grams of opium was effected from them. The petitioner has been nominated in this case on the basis of the disclosure suffered by co-accused Amlesh Sawhney, wherein he stated that he had purchased the recovered contraband from the petitioner, who is his sister-in-law (*Bhabhi*). Apprehending her arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Ambala but the same had been dismissed, vide order dated 12.06.2024.

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3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. No subsequent recovery of contraband 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. She has clean antecedents. The petitioner is ready to join the investigation. 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 there are serious and specific allegations against the petitioner. Co-accused Amlesh Sawhney has disclosed that he had purchased the recovered contraband from the petitioner. The petitioner was hyper active on the day when the contraband was supplied as there were exchange of 51 telephonic calls between herself and co-accused Amlesh Sawhney. 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 Amlesh Sawhney, who is her brother-in-law. There are allegations against the petitioner that she had supplied the contraband to the co-accused. The quantity of the contraband recovered from

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the co-accused is very huge and obviously falls within the commercial quantity. Though, the petitioner was not found at the spot and was nominated in this case on the basis of the disclosure made by the co-accused, but the call details record shows that there were exchange of 51 calls between the co-accused and herself, which means she was in constant touch of the co-accused on the day when the contraband was supplied to the co-accused. The complicity of the petitioner cannot be ruled out. The custodial interrogation of the petitioner is required for proper 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.

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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.

04.07.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No