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

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CRM-M-34867-2024 (O&M)
Date of decision: 02.08.2024

Buta Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Ms. Harpreet Kaur, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, 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. 48 dated 24.06.2024, registered under Section 21(c) and 29 (added later on) of the NDPS Act, 1985 at Police Station Bhargo Camp, District Jalandhar.
2. Brief facts of the case relevant for the disposal of the present petition are that on 24.06.2024, co-accused Jagsir Singh was apprehended by the police party and recovery of 400 grams of heroin was effected. The petitioner has been nominated in this case on the basis of the disclosure statement suffered by aforesaid co-accused, wherein he stated that the recovered contraband was given to him by the petitioner for supplying the same to a person. It was also disclosed by the co-accused that the petitioner used to sell contraband to one Deepa Brar also. Apprehending his 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

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dismissed, vide order dated 15.07.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. 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 amount of money, which have transferred by co-accused Deepa Brar to the petitioner, was sent for the purpose of stocks from the share market. No other case under the NDPS Act is pending against the petitioner. He is ready to join the investigation. No useful purpose would be served by detaining him in custody. Therefore, it is urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel, in terms of the status, has argued that there are serious and specific allegations against the petitioner. Co-accused Buta Singh had disclosed that he had purchased the recovered contraband from the petitioner. Apart from this, the petitioner used to sell contraband to co-accused Deepa Brar as well. It has come out during investigation that the petitioner used to give an amount of Rs. 10,000/- to co-accused Jagsir Singh for every delivery of intoxicant substances. The allegations against the petitioner have been established during investigation. He is a habitual criminal as he is already involved in three more FIRs under the provisions of IPC for committing serious offences, which are punishable under Sections 302 and 307 of IPC. 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.

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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 Jagsir Singh with an allegation that he used to sell intoxicant substances to the petitioner as well as co-accused Deepa Brar. The quantity of the contraband recovered from 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 during investigation, it has been found that co-accused Jagsir Singh used to deliver heroin to Deepa Brar on the instructions of the present petitioner and co-accused Deepa Brar used to send money to the petitioner through online banking and on verification of the bank accounts of the accused persons, it has surfaced that co-accused Deepa Brar has transferred a sum of Rs. 15 Lakhs to the petitioner, during the period from 12.11.2023 to 08.06.2024 through online banking. Hence, the disclosure statement suffered by co-accused Jagsir Singh cannot be disbelieved and the complicity of the petitioner in the subject crime cannot be ruled out, at this stage. More so, the antecedents of the petitioner are also not clean and he has been shown to be involved in three other FIRs for commission of serious offences. 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

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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.

02.08.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No