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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Sr. No.215

CRM-M-38120-2024 (O&M)
Date of decision : 22.08.2024

Seema Petitioner

VERSUS

State of Punjab Respondent

CORAM: HON’BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Rajeev Kataria, Advocate,
Mr. Deepshikha Arora, Advocate,
Mr. S.S. Rana, Advocate,
Mr. A.K. Sharma, Advocate and
Mr. Dipanshu Kapur, Advocate,
for the petitioner.

Mr. Vinay Kumar, DAG, Punjab.

KIRTI SINGH, J.

1. Apprehending arrest in FIR No.125 dated 18.06.2024, under Sections 21(c) & 29 of the NDPS Act, 1985, registered at Police Station Division No.8, Police Commissionerate, District Jalandhar, the petitioner has preferred this petition under Section 438 Cr.P.C. for grant of pre-arrest bail.
2. Succinct factual narrative relevant for the disposal of the instant petition is that on 18.06.2024, Inspector Ravinder Kumar along with fellow police officials were in a government vehicle bearing No.PB-08-DS-4496, a Bolero Camper and they were at a check point in front of DEI Information Centre, Jalandhar, monitoring for suspicious persons and patrolling duties. When the police was present at the above-said spot, then a young man with a kit bag on his shoulder was spotted coming on a motorcycle from village

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Lamba Pind Chowk, Jalandhar. Upon seeing the police, he attempted to turn back, got perplexed and fell down and thereby, the motorcycle was stopped. Inspector Ravinder Kumar, with the help of other fellow police officials, apprehended the above-said person along with motorcycle bearing registration No.PB-08-DX-7821. Upon asking for identification, the said person identified himself as Satish Suman son of Lamber Ram R/o Ganna Pind, Near Guru Ravidass Temple, Jalandhar. Inspector Ravinder Kumar told the above-said Satish Suman that there is suspicion of possession intoxicating substances in his possession, motorcycle and kit bag. Satish Suman was further informed about his legal rights to get conduct search in the presence of Gazetted Officer or Magistrate as per the procedure of law contained under Section 50 of the NDPS Act, 1985, however, Satish Suman opted for a search by a Gazetted Officer. Hence, non-consent memo was signed by the said Satish Suman. Further, Paramjit Singh ACP (Detective), Jalandhar was called at the spot and the said officer reiterated to the abovesaid Satish Suman about suspicion of having intoxicant substance in his possession and further he was apprised about his legal rights as per Section 50 of NDPS Act and Satish Suman agreed to get conduct search in the presence of the said officer. Hence, consent memo was prepared and the same was signed by Satish Suman.

2.1 Upon receipt of written intimation at Police Station, the above-said FIR was registered by the police against the accused-Satish Suman. Further, the said accused was produced before the learned Magistrate along with the above-said parcel containing heroin and the

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learned Magistrate prepared samples of the same so as to send the same for chemical examination.

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. He further contends that the petitioner has not been named in the FIR and there is no allegation that she has supplied the alleged recovered heroin from the co-accused nor there is allegation that she was going to purchase the same. She was neither present at the spot nor there is any allegation that she ran away from the spot.

4. In compliance of order dated 07.08.2024, status report has been filed by the learned State counsel in Court today. The same is taken on record. The relevant portion of the said report be read as under:-

'9. That during the course of the investigation, the accused-Satish Suman disclosed that he used to deliver heroin as per the instructions of Lucky son of Balbir Chand, R/o Ganna Pind, District Jalandhar who is currently residing in the USA. The mobile number of Lucky are +1(209) 227-9494 and +1(209) 290-5578 and he communicates with Satish Suman on whatsapp number 70875-34768, operating with SIM number 98726-34761. The above-said Lucky directs Satish Suman to procure heroin from Amritsar and Tarn Taran and deliver it to specific customers and Lucky provides locations, changes them frequently.

It was further disclosed by Satish Suman after procuring the heroin, Satish Suman received delivery instructions from

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Lucky via whatsapp, including vehicle details such as PB-36-J-9289 (Make I-20 car white) and PB-07-BH-2493 (make i-20 white) and Satish Suman further disclosed that he used to deliver heroin to persons namely Balkar Singh and Kulwant Ram. Further, Satish Suman was paid Rs.10,000/- for each delivery to the customers. Hence, Balkar Singh, Kulwant Ram and Lucky were arrayed as co-accused in the FIR. The accused Satish Suman further disclosed that after selling heroin to customers, he used to hand over drug money to wife of above-said Lucky namely Neha and one more lady Seema (present petitioner) used to purchase heroin from him at Phillaur City of District Jalandhar. Therefore, the above-said Seema (present petitioner) and Neha were arrayed as co-accused vide DDR No.23 dated 22.06.2024 and they are yet to be arrested by the police.

5. Learned State counsel submits that the co-accused Balkar Singh was arrested and Rs.12,00,000/- drug money along with 720 grams of heroin and an electronic weigh machine were recovered from his car bearing No.PB-36-J-9289 (Make I-20 white). Further, accused-Kulwant Ram was arrested and 280 grams of heroin along with an electronic weight machine were recovered from his car bearing No.PB-07-BH-2493 (make i-20 white). The above-said heroin, drug money and cars were taken into possession by the police. He further submits that the accused-Balkar Singh disclosed that the heroin seized by the police from him was supplied by the accused-Lucky who is currently residing in the USA. He communicated with Lucky via

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whatsapp number +1(209)290-5578, while using his own phone number 7986121830, which is actually registered and belongs to Sheela Rani who is wife of the co-accused Kulwant Ram and she is his sister-in-law. The accused Balkar Singh further disclosed that he receives heroin from accused Satish Suman 2-3 times in a month. Balkar Singh used to transport heroin with his wife namely Baljinder Kaur in their car, make i-20 car bearing No.Pb-36-J-9289 to avoid suspicion. Upon receiving heroin from accused Satish Suman, the cash was given to Satish Suman as instructed by the co-accused Lucky who then passed it on to Neha, who is wife of the accused Lucky. Balkar Singh further disclosed that one lady Kamla is also indulged in the illegal trade of selling heroin. He also submits that the present petitioner-Seema is one of the customers like the co-accused Balkar Singh and Kulwant Ram, thereby making her indirectly involvement in the drug trade being orchestrated by accused Lucky.

6. Heard the rival submissions made by learned counsel for the parties.

7. Admittedly, the petitioner-Seema and co-accused Neha were arraigned as an accused in the above-said FIR vide DDR No.23 dated 22.06.2024 on the basis of disclosure statement made by accused-Satish Suman. It is also alleged that the accused-Lucky was operating a large scale drug trafficking racket from the USA and his operations involved the delivery of heroin through accused-Satish Suman to the customers Balkar Singh, Kulwant Ram and the present petitioner-Seema.

8. The Hon'ble Supreme Court in the case of *State of Haryana*

Versus Samarth Kumar (supra), held as under:-

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“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.

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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.*

9. *To grant anticipatory bail in a case of this nature is not really warranted. Therefore, we are of the view that the High Court fell into an error in granting anticipatory bail to the respondents.*

10. *In view of the above, the appeals are allowed. The impugned orders are set-aside. As a consequence, the Appellant-State is entitled to take steps, in accordance with law’.*

[emphasis supplied]

9. A perusal of the aforementioned judgment would clearly show that though the recovery from the principal accused was of commercial quantity of contraband, no distinction whatsoever has been drawn by the Hon'ble Supreme Court with respect to the recovery from the principal accused being of commercial/non-commercial quantity being a determining factor for the grant of bail to the person named in the disclosure statement.

10. This Court in the case of ***Gurpreet Singh Versus State of Punjab, CRM-M-44196-2022, decided on 23.09.2022*** had dismissed the anticipatory bail petition of an accused who had been named in a disclosure statement of the arrested accused. An SLP No.9680/2022 was preferred against the said order and the said SLP was dismissed by the Hon'ble Supreme Court vide order dated 07.11.2022.

11. In view of the aforementioned discussions and in view of the serious allegations leveled against the petitioner and to unearth the true

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dimension of the alleged crime, this Court does not deem it appropriate to interfere in the matter so as to grant the concession of anticipatory bail to the petitioner at this stage.

12. The present petition is dismissed.
13. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

22.08.2024
Ramandeep Singh

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No