



CRM-M-41470-2024

1

212

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-41470-2024

Date of Decision : 02.09.2024

Baljinder Kaur

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Ashok Giri, Advocate for the petitioner.

Mr. R.S. Thind, DAG Punjab

KIRTI SINGH, J.(Oral)

1. Apprehending arrest in FIR No.125 dated 18.06.2024, under Section 21(c) of the NDPS Act, 1985 (Sections 27-A/25 and 29 of NDPS Act added later on) registered at Police Station Division No.8, Police Commissionerate, District Jalandhar, the petitioner has preferred this petition under Section 482 BNSS, 2023 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 for performing patrolling duties and for monitoring suspicious activities. Meanwhile, a young man with a kit bag on his shoulder was spotted coming on a motorcycle and upon seeing the police, he got perplexed and attempted to turn back, fell down, thereby, the motorcyclist was apprehended.

2.1 Upon questioning, the said person identified himself as Satish Suman son of Lamber Ram. Inspector Ravinder Kumar told the above-said Satish Suman

**CRM-M-41470-2024****2**

and he was further informed about his legal rights to get the search conducted in the presence of Gazetted Officer or Magistrate as per the procedure of law contained under Section 50 of the NDPS Act, 1985 and Satish Suman opted for a search by a Gazetted Officer, accordingly, non-consent memo was prepared and same was signed by the said Satish Suman. Further, Paramjit Singh ACP (Detective), Jalandhar was called at the spot. Upon his arrival the search of kit bag carried by the above-said Satish Suman was done and 01 Kg heroin was recovered from him. Further, written intimation was sent to the Police Station Division No.8, Jalandhar for registration of FIR against Satish Suman.

2.2 Upon receipt of the written intimation at Police Station, the FIR was registered by the police against the accused-Satish Suman. The said accused was produced before the learned Magistrate along with the above-said parcel containing heroin and the learned Magistrate prepared samples of the same so as to send the same for chemical examination.

2.3 During the course of investigation, the accused Satish Suman disclosed that he used to deliver Heroin as per the instructions of Lucky S/o Balbir Chand, who was currently residing in the USA and he used to communicate with Satish Suman on WhatsApp. The above-said Lucky used to direct Satish Suman to procure heroin from Amritsar and Tarn Taran and deliver the same to specific customers. Satish Kumar 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. Consequently, Balkar Singh, Kulwant Ram and Lucky were arrayed as co- accused in FIR. The accused Satish Suman further disclosed that after selling heron to customers, he used to hand over



CRM-M-41470-2024

3

Therefore, the above-said Seema and Neha were arrayed as co-accused vide DDR No.23 dated 22.06.2024 and who are yet to be arrested by the Police.

2.4 On 20.06.2024, the co-accused Balkar Singh was arrested and Rs 12 lakhs drug money along-with 720 grams Heroin and an electronic weigh machine were recovered from his car bearing No. PB-36-J-9289. Further, accused Kulwant Ram was arrested and 280 grams Heroin and an electronic weigh machine were recovered from his car bearing No. PB-07-BH-2493.

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 she has only been nominated on the basis of disclosure statement of Balkar Singh and she is a woman of clean antecedents. Learned counsel has placed reliance on judgments passed in ***State of Haryana vs. Samarth Kumar, 2022 LiveLaw (SC) 622***, SLP (Crl.) No. 3310/2023 titled as ***Jagroop Singh vs. State of Punjab*** decided on 12.07.2023, SLP (Crl.) No. 1266/2023 titled as ***Vijay Singh vs. State of Haryana*** decided on 17.05.2023, ***Nek Chand @ Neka and another vs. State of Haryana, 2015(2) RCR(Criminal) 691***, Crl. Appeal No. 3173 of 2024 titled as ***Jalaluddin Khan vs. Union of India***, decided on 13.08.2024 and SLP (Crl.) No. 8781 of 2024 titled as ***Manish Sisodia vs. Directorate of Enforcement*** decided on 09.08.2024.

4. In compliance of order dated 27.08.2024, short reply 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:-

“11. That on 23.06.2024, 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 +1 (209)290-5578, while using his WhatsApp number 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.

12. That the co-accused Kulwant Ram disclosed on 23.06.2024 that his wife namely Sheela Rani is also indulged in the illegal trade of selling Heroin and she gave her mobile N 7986121830 to the accused Balkar Singh. The above-said car bearing No. PB-07-BH-2493 (Make i-20 white) was purchased by him by earning money from drug trafficking and the said car was owned in the name of his wife Sheela Rani, which was recovered by the Police from him at the time of his arrest.

13. That in view of the facts revealed by the above-said Balkar Singh and Kulwant Ram; the above-said Baljinder Kaur, Sheela Rani and Kamla were arrayed as co-accused vide DDR No. 19 dated 24.06.2024. The accused Baljinder Kaur and Kamla are yet to be arrested by the Police as they have been evading their arrest; however, the accused Sheela joined investigation on 16.08.2024 after taking concession of pre-arrest bail from the concerned learned Court.”

5. Learned State counsel submits that the present petitioner Baljinder

Kaur is wife of Balkar Singh and as per investigation, the accused Balkar Singh

used to receive heroin from accused Satish Suman about 2-3 times in a month and



the accused Balkar Singh along with the petitioner used to transport heroin in car bearing No. PB-36-J-9289, to avoid suspicion. The said car bearing No. PB-36-J-9289 was actually purchased by the accused Balkar Singh in the name of Pooja, who is his relative.

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

7. The Hon'ble Supreme Court in the case of ***State of Haryana Versus Samarth Kumar*** (supra), held as under:-

“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



CRM-M-41470-2024

6

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.

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]

8. 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.

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

10. The petition is dismissed.

02.09.2024

reena

(KIRTI SINGH)
JUDGE

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No