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2024.PHHC.119770



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45111-2024
DECIDED ON: 11.09.2024

JINDER KAUR ALIAS HARJINDER KAUR
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Abhilasha Kainth, Advocate for
Mr. B.S. Bhalla, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, A.A.G., Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.97, dated 21.04.2021, under Section 21 (later on added Section 29) of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Lopoke, District Amritsar Rural.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Statement of LR/AS Bhupinder Singh 15 PS Lopoke District Amritsar Rural M.No. 9780004489. It is stated that I am posted as Investigated Officer in P.S. Lopoke and I alongwith CT Tejinder Bir Singh 289, PHG Paramjit Singh 312 were going in private vehicle on

patrolling duty in search of bad elements from P.S. Lopoke to Chugawan, Kohala, Chawinda Kalan etc. and when the police party was going from village Kohala to Chugawan and reached near the bridge of drain Attari Road Chugawan then two clean shaven persons were seen coming on motor cycle and after seeing the police party they stopped the motor cycle and started walking towards the western side and while going the driver of the motor cycle took out something from his left pocket from the lower and threw on the ground and the other person took out something from right pocket from his lower and threw it down. They were apprehended by me with the help of team members and on enquiry the driver of the motor cycle disclosed his name as Chand Singh son of Kashmir Singh @Bau r/o Chugawan and the other person disclosed his name as Amarpreet Singh Bonu son of Gurdev Singh r/o Rohala and the things thrown by them were in transparent plastic bag and something like heroine was seen from it on enquiry they told that there is heroine in them and Chand Singh stated that the motor cycle No. PB 02 CJ 7932 belongs to him. The heroine comes under NDPS Act. I ASI of the local zank cannot investigate under NDPS Act. Information is being given to you on mobile. You came on the spot and the above said peracna were handed over to you and the plastic bags thrown by them are lying as it is. Statement given action be taken. Sd/-LR/ASI Bhupinder Singh.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner was not initially named in the FIR but was subsequently roped in only on the basis of disclosure statement of co-accused. He further contends that nothing

has been recovered from the present petitioner as whatever recovery was effected i.e. 5.5 grams heroin was from other co-accused persons namely Chand Singh and Amarpreet Singh. It has been asserted on behalf of the petitioner that she is not involved in any other case, meaning thereby, she is not a habitual offender.

On behalf of the State

Learned State Counsel appearing on advance notice, does not controvert to the aforesaid fact but opposed the prayer for grant of anticipatory bail to the petitioner on the ground that the petitioner was the one who had supplied heroin to the main accused, therefore, her custodial interrogation is required at this stage.

4. Analysis

Be that as it may, considering the fact that the petitioner was nominated as an accused only on the basis of disclosure statement of co-accused and the fact that nothing has been recovered from the present petitioner as whatever recovery effected was from other co-accused persons, namely Chand Singh and Amarpreet Singh added with the fact that the petitioner is not involved in any other case, no useful purpose would be served by sending her behind the bars.

5. Decision

In the light of above, this petition deserves to be accepted and the petitioner is directed to be released on anticipatory bail subject to her joining investigation with the Investigating Officer concerned within a period of 10 days from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

- (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
- (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
- (iii) a condition that the person shall not leave India without the previous permission of the Court;*
- (iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.’*

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within a period of 10 days, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

11.09.2024
Mani Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>