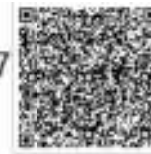


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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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CRM-M-47322-2024 (O&M)
Date of decision: 01.10.2024

Heera Singh		...Petitioner
	Versus	
State of Punjab		...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Kirat Pal Dhaliwal, Advocate
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition filed by the petitioner seeking concession of anticipatory bail in FIR No. 138 dated 02.08.2024, registered under Sections 18 and 29 of the NDPS Act, 1985 at Police Station Gate Hakima, District Amritsar. The first petition, bearing number CRM-M-46631-2024, was dismissed as withdrawn on 19.09.2024 with liberty to file afresh with correct and better particulars.
2. Brief facts of the case relevant for the disposal of the present petition are that on 02.08.2024, co-accused Kashmir Singh @ Minta was apprehended by a police and recovery of 02 kgs. of opium was effected from him. The petitioner has been nominated in this case on the basis of the disclosure statement suffered by the aforesaid co-accused, wherein he disclosed that he used to drive the truck of the petitioner and on instructions of the petitioner, he used to bring opium from other States. The co-accused was formally arrested at the spot and the truck bearing registration number

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PB-02-CC-9960 was taken into police possession. Co-accused Kashmir Singh @ Minta made further disclosure on 03.08.2024 to the effect that he was working as driver on the aforesaid truck of the petitioner for the last about 5-6 years and used to bring opium from other States on the asking of the petitioner and used to deliver the same to him. On 05.08.2024, on the disclosure of the said co-accused, further recovery of 2.996 kgs. of opium was effected. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Judge, Special Court, Amritsar but the same had been dismissed, vide order dated 12.09.2024

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. He is not the owner of the aforesaid truck. He has a permanent abode and, therefore, there is no chance of his absconding. He is ready to join the investigation. No recovery is to be effected from him. Therefore, it is urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel, in terms of the status report filed today in Court, has vehemently opposed the prayer of the petitioner by arguing that although, the petitioner has been nominated in this case on the basis of the disclosure statements suffered by the aforesaid co-accused but his complicity in the subject offence has been established during the course of investigation. The aforesaid co-accused had named the petitioner as person on whose instructions he used to bring opium from other States and used to supply him. On the disclosure of the aforesaid co-accused, further recovery of 2.996 kgs. of opium was subsequently effected on 05.08.2024. The petitioner is a supplier of

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contraband and he was actively involved in the commission of subject offence. His custodial interrogation 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 statement suffered by co-accused Kashmir Singh @ Minta, from whose custody, firstly 02 kgs. of opium was recovered and thereafter in pursuance of his disclosure on 05.08.2024, another recovery of 2.996 kgs. of opium was effected. The allegations against the petitioner are that the co-accused was working on his truck as driver and on instructions of the petitioner, he used to bring contraband from other States and used to supply the same to the petitioner. The petitioner has taken a plea that in fact he is not the registered owner of the aforesaid truck. However, this plea cannot be taken into consideration at this state while deciding a petition for grant of anticipatory bail.

The allegations against the petitioner are serious in nature. His custodial interrogation 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 482 of BNSS, 2023 are to be exercised in extraordinary and sparing circumstances. More so, custodial interrogation of a suspected person is

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qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 482 of BNSS, 2023. 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.

01.10.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No