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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No. 54628 of 2023 (O&M)

Date of decision : 20.02.2024

Jaswinder Kaur

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. P.S.Bhandari, Advocate for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

1 While issuing notice of motion on 07.11.2023 the following order was passed:-

“Learned counsel for the petitioner has submitted that the petitioner is a lady of the age of 38 years and her name was nominated on the ground that she was the owner of the vehicle from where there was an alleged recovery of 5 kgs. of Opium from the other two co-accused who have since been extended the benefit of regular bail. He further submitted that the petitioner is not involved in any other case and there was no recovery effected from the petitioner and therefore, the bar of Section 37 of the NDPS Act will not apply.

Notice of motion.

Mr. Ramdeep Partap Singh, Senior DAG, Punjab accepts notice on behalf of the State of Punjab.

Adjourned to 20.02.2024.

In the meantime, the petitioner is directed to join the investigation and to co-operate fully with the investigation process and on her doing so, the petitioner be released on interim bail subject to her furnishing personal bonds and surety to the satisfaction of Arresting /Investigating Officer.

However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

2 Learned State counsel on instructions from ASI Nachhatar Singh has stated that pursuant to the order dated 07.11.2023 the petitioner has joined investigation and her custodial interrogation is not required, however, the matter relates to recovery of 5 kgs. of opium from the vehicle owned by the petitioner.

3 Faced with this situation learned counsel for the petitioner submits that infact he is the husband of the present petitioner, who was allegedly apprehended while driving car, from which 5 kg. of opium was recovered. So far as the present petitioner is concerned, she was neither apprehended from the spot nor has any criminal antecedents. He further submits that so far as husband of the petitioner is concerned he also stands now admitted to bail.

4 Learned State counsel is not in a position to dispute the aforementioned factual assertions based on record.

5 In view of above, the interim order dated 07.11.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

6 This order should not be treated as "blanket" order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

7 This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the petitioner.

8

The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.

9

It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

10

Petition stands disposed off.

11

Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

20.02.2024

Pooja sharma-I

(PANKAJ JAIN)

JUDGE

Whether speaking/reasoned

Whether Reportable :

Yes

No