

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10148 of 2015

Date of decision: April 29, 2015

Krishna

.... Petitioner..

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. P.S. Sekhon, Advocate,
for the petitioner.

Mr. Vikas Chopra, DAG, Haryana.

Jaspal Singh, J. (Oral)

This is a petition under Section 439 of the Code of Criminal Procedure preferred by Ms. Krishna (now confined in District Jail Rohtak), seeking bail in case FIR No. 16, dated 15.01.2015, Under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "Act" only).

2. Shortly, put case of prosecution is that on January 15, 2015, petitioner was intercepted by police and when subjected to personal search, she was found possessing a bag containing 23 Kgs. of poppy husk, without any permit and license. After completion of necessary formalities, she was arrested and investigation was put into motion.

3. The contention of learned counsel for petitioner is that

petitioner, who is a lady and mother of three minor children, has been falsely implicated in the instant case and poppy husk weighing 23 kgs. has been foisted upon her by the police. In fact, nothing incriminating was recovered from her. Even otherwise, alleged recovery of poppy husk falls within the definition of non-commercial quantity being less than 50 kgs. Petitioner is in custody since January 15, 2015. Challan has already been presented, disposal of which is likely to take sufficient long time.

4. Learned State counsel has not disputed the fact that recovery of poppy husk is non-commercial quantity. However, he has strongly opposed the petition submitting that petitioner has rightly been arrested as she was involved in this case and recovery of 23 kgs. of poppy husk was effected from her.

5. This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and has perused the record available.

6. Undeniably, petitioner is suffering incarceration from the date of her arrest i.e. January 15, 2015, who is a mother of three minor children. Recovery of poppy husk alleged to have been effected is also non-commercial. As such, provisions contained under Section 37 of the Act are inapplicable. The investigation also stood completed as report under Section 173 (2) Cr.P.C. has already been presented.

7. In the given circumstances, custody of petitioner is no more required for further interrogation. Moreover, disposal of challan is also not possible in the near future.

8. Taking into consideration all these aspects of this case and without expressing any opinion on the merits of the case, this Court is of the considered view that petitioner deserves concession of bail. Accordingly, petition is allowed and petitioner-Krishna is ordered to be released on bail, during pendency of trial, subject to her furnishing requisite bail bonds, at the satisfaction of Id trial court/Duty Magistrate, Rohtak.

April 29, 2015
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(JASPAL SINGH)
JUDGE