

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-1340 of 2017

Date of Decision: 27.03.2017

Amandeep Kaur @ Pinky @ Aman

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashish Aggarwal, Advocate
for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.136 dated 22.09.2014 registered for offences punishable under Sections 21 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Valtoha, District Tarn Taran. (Offence punishable under Section 29 NDPS Act, was added later on).

Heard.

The petitioner was allowed bail vide order dated 17.04.2015 under Section 167 (2) Cr.P.C.

Learned counsel for the petitioner submits that during pendency of trial, the petitioner could not appear on 24.10.2016 and her bail was cancelled. Thereafter, she surrendered on 29.11.2016 and explained the reasons for her non-appearance on 24.10.2016. However, learned trial Court declined the bail application on the ground that recovery of contraband from the petitioner is of commercial quantity. Once the petitioner had been

allowed benefit of bail under Section 167 (2) Cr.P.C., the same could not be withdrawn on this ground.

Learned State counsel submits that one of the terms on which the bail was allowed to the petitioner under Section 167 (2) Cr.P.C. was that she will keep on appearing on each and every date of hearing and once she flouted one of the terms of bail, she is not entitled to regular bail.

On giving a careful thought to submissions of learned counsel for the petitioner and learned State counsel, I find that declining of regular bail to the petitioner for the reason that the contraband recovered from her is of commercial quantity virtually amounts to withdrawal of benefit of bail allowed to her vide order dated 17.04.2015. The trial Court was required to consider as to whether the petitioner had been able to explain her non-appearance on 24.10.2016 and if it was satisfied that the same has been duly explained, the benefit of regular bail could be extended to her. The petitioner had cited medical reasons for her non-appearance on 24.10.2016 and had also produced her medical certificate issued by Dhawan Nursing Home, Tarn Taran. The trial Court could at the most verify the veracity of medical certificate.

Taking note of above facts and circumstances and keeping in view the fact that the petitioner had been regularly appearing before the trial Court and absented only on one occasion, I allow the present petition. Petitioner-Amandeep Kaur @ Pinky @ Aman is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

(a) The petitioner shall comply with the conditions

mentioned in Section 437(3) Cr.P.C.

- (b) In the event of her absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel her bail bond and surety bond and proceed to procure her presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the previous permission of the Court.

March 27, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No