

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

**CRM-M No.19261 of 2018 (O&M)
Decided on: 10.07.2018**

Rajni		Petitioner
	Versus	
State of Haryana		Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. S.S. Gill, Advocate
and Ms. Manjot Kaur, Advocate for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

CRM No.16556 of 2018

Heard.

Allowed as prayed for.

CRM-M No.19261 of 2018

The petitioner prays for grant of regular bail under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.102 dated 31.01.2018, for offence punishable under Sections 20, 25, 27-A and 29 of the Narcotic Drug and Psychotropic Substances Act, 1985, registered at Police Station City Thanesar, District Kurukshetra.

Counsel for the petitioner has submitted that after the anticipatory bail of the petitioner was dismissed vide order dated 28.02.2018 passed in CRM-M No.7204 of 2018, she has surrendered before the trial Court on 06.03.2018. It is further submitted that the co-accused of the petitioner namely Banti has already been granted the concession of regular bail vide order dated 30.04.2018 passed in CRM-M No.16374 of 2018. The operative part of the said order is reproduced

as below:-

“Counsel for the petitioner has submitted that the petitioner is an old lady aged about 67 years and as per the allegation in the FIR, the co-accused Rajni has kept the contraband in her house and in lieu thereof, the petitioner got some money. It is further submitted that it will be a debatable issue whether the petitioner was found in possession of the contraband as per the allegation in the FIR or not. It is also submitted that the petitioner is in judicial lock up since 31.01.2018 and it will take some time in conclusion of the trial.

Counsel for the State, on instructions from ASI Mahender Singh, submits that the petitioner is not involved in any other case under the NDPS Act and as per the investigation, it is found that the petitioner has rented out the portion of the house to co-accused Rajni, from where the recovery was effected.

Without commenting anything on merits of the case and considering the fact that the petitioner is an old lady aged about 67 years; she is not involved in any other case; she is in judicial lock up since 31.01.2018; the challan has been presented; charges are yet to be framed and the FSL report is still awaited, this petition is allowed and the petitioner is ordered to be released on bail subject to furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail, if the petitioner is found misusing the concession of bail, in any manner.”

Counsel for the petitioner has further argued that the petitioner, who is a household lady aged about 34 years, was not arrested at the spot and the recovery was effected from the house of the co-accused namely Banti, who has already been granted the concession

of regular bail. It is further submitted that the FSL report is still awaited and the recovery is marginally higher than the commercial quantity.

Counsel for the State, on instructions from SI Ram Parkash, has not disputed the factual position but opposed the prayer for bail on the ground that the petitioner is involved in 02 more cases under the NDPS Act.

Counsel for the petitioner, in reply, has submitted that the petitioner is on bail in those cases and no recovery is effected from the petitioner.

Without commenting anything on merits of the case and considering the fact that the co-accused of the petitioner has already been granted the concession of regular bail; the petitioner is on bail in other FIRs; the recovery was not effected from the petitioner; the trial is still at the initial stage and the statement of the prosecution witnesses has not been recorded, so far, this petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail, if the petitioner is found involved misusing the concession of bail, in any manner.

10.07.2018
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No