

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-35546-2018

Date of decision: 24.08.2018

Harpreet Kaur

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Arti Kaur, Advocate
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.65 dated 17.08.2017 under Sections 22/29 of NDPS Act, registered at Police Station Mukandpur, District SBS Nagar.

Learned counsel for the petitioner submits that while granting regular bail to co-accused Gurpreet Singh in CRM-M-17523-2018, following order was passed on 06.07.2018: -

“Counsel for the petitioner has submitted that as per the allegation in the FIR, ASI Surinder Singh along with his police officials, on a police patrol, noticed a white colour car and when the car was stopped, the driver of the car fled away from the spot after throwing the packet which he was carrying and a boy and girl sitting on the back seat of the car were apprehended and the bags were searched. The boy revealed his name as Gurpreet Singh (petitioner herein) whereas the girl revealed her name as Harpreet

Kaur. On the search of polythene bag carrying by them on their thighs, recovery of 10 injections of Buprenorphine of 2 ml each and 10 Phenramine Avil injections of 10 ml each and 40 syringes were made.

Counsel for the petitioner has further submitted that even though, as per the allegation in the FIR, an offer was made by ASI Surinder Singh for being searched before the Gazetted Officer or the Magistrate, yet the consent of the petitioner was taken for being searched before the ASI himself, which is not the proper compliance of Section 50 of the NDPS Act. It is further submitted that it will be a debatable issue as to whether the alleged recovery will fall in the commercial quantity as there is a difference in measurement of the contents of each injections in ml/mg.

Counsel for the petitioner has further argued that the petitioner is a young boy aged about 19 years and is a first offender and it will also be a debatable issue as to whether the petitioner was in conscious possession of the packet or not as the driver fled away from the spot after throwing the packet.

Counsel for the State has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case and considering the fact that the investigation is complete; the petitioner is not involved in any other case; he has undergone about 04 months of judicial lock up as per the Custody Certificate dated 03.05.2018, 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/Illaq Magistrate/Duty Magistrate.”

Learned counsel for the petitioner further submits that the petitioner is lady, who is having three months old child and is in judicial custody since 01.08.2018. It is further submitted that it is very difficult for the

petitioner to take care of the child and she is not involved in any other case. It is also submitted that on an earlier occasion, the petitioner was granted interim bail awaiting the report of the Chemical Examiner.

Learned State counsel has filed the custody certificate dated 24.08.2018 in the Court today and has not disputed the fact that the petitioner is not involved in any other case.

Without commenting anything further on merits of the case, considering the fact that the petitioner is a lady, who is having three months old child and she has to take care of her minor child; she is in judicial custody since 01.08.2018 and also in view of the fact that the petitioner is not involved in any other case, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing her bail/surety bond to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

24.08.2018
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No