

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

**CRM-M No.36604 of 2017
Decided on: 20.08.2018**

Balwinder Kaur

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Ms. Taranjit Kaur Hundal, Advocate for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.152 dated 01.06.2017, for offence punishable under Section 21/61/85 of the Narcotic Drug and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station Nakodar, District Jalandhar.

Learned counsel for the petitioner has submitted that the FIR was registered on the basis of a secret information that one Gurdeep Singh @ Deepa and the petitioner are indulged in the sale of narcotics and are coming in one Zen car and after registration of the FIR, the police laid a barrier and recovered 300 gms. of heroine from the car, which was driven by Gurdeep Singh @ Deepa. It is further submitted that recovery was effected from the co-accused namely Gurdeep Singh @ Deepa and therefore, it will be a debatable issue to be decided during the course of trial whether the petitioner was in conscious possession of the contraband or not.

Learned counsel for the petitioner has further submitted that the petitioner is not involved in any other case under the NDPS Act and in 03 other FIRs registered under Sections 406 and 420 IPC, the petitioner is on bail. It is also submitted that the petitioner is in custody since 02.06.2017, till date no prosecution witness has been examined despite the fact that charge was framed on 06.12.2017 and there are 14 prosecution witnesses cited in the report under Section 173 Cr.P.C.

Learned counsel for the State, on instructions from HC Amrik Singh and on the basis of the Custody Certificate dated 09.05.2018, has not disputed the aforesaid factual position.

Without commenting anything on merits of the case, considering the fact that the petitioner is a lady; she is not involved in any other case under the NDPS Act; she is in custody since 02.06.2017; till date no prosecution witness has been examined and it will be a debatable issue to be decided during the course of trial whether the petitioner was in conscious possession of the contraband or not, 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.

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

20.08.2018
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(ARVIND SINGH SANGWAN)
JUDGE

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