

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-40602 of 2018
Date of Decision: 20.09.2018

Amarjit Kaur @ Jiti Bhua

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Arshdeep Singh Brar, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Sr. 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.26 dated 03.02.2018 registered for the offence punishable under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station City South Moga, District Moga.

Heard.

As per case of prosecution, a secret information was received at about 07.00 p.m. on 03.02.2018 that petitioner is habitual of selling intoxicating powder. Thereafter, a raid was conducted and an envelope of black colour containing intoxicating powder was recovered from her possession, which was found to be containing 200 gms. of powder which at later stage as per FSL report was detected to be “Alprazolam”.

Learned counsel for the petitioner submits that raid was conducted in violation of provisions of Sections 42 of NDPS and 46 Cr.P.C.

In the month of February sun usually sets at 06.00 p.m. while recovery was

effected at 08.30 p.m. after receipt of secret information at 07.00 p.m. The prosecution has not come up with any explanation for violation of above provisions.

Learned State counsel submits that prosecution shall explain during trial about compliance of provisions of Sections 42 NDPS Act and 46 Cr.P.C. However, he could not point out any writing by investigating officer for his ground to enter house of petitioner and to arrest her after sun set.

Without expressing any opinion on merits of the case and leaving this matter to be decided by the trial Court at appropriate stage, this petition is allowed. Petitioner-Amarjit Kaur @ Jiti Bhua 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- (b) In the event of her absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn.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) She shall not leave the country without the previous permission of the Court.

September 20, 2018
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(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No