

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

CRM-M-4376 of 2018.

Decided on:- July 11, 2018.

Amarjit Kaur.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA.*

Argued by:- Mr. R.P. Dhir, Advocate
for the petitioner.

Mr. Surinder Pal Singh Tinna, Addl. A.G., Punjab.

HARI PAL VERMA, J.

The petitioner has filed present petition under Section 439 Cr.P.C. seeking regular bail in FIR No.88 dated 26.06.2016 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the NDPS Act) registered at Police Station Mehtiana, District Hoshiarpur.

As per FIR, on 26.06.2016, when the police party headed by ASI Satnam Singh along with other police personnel was on checking and patrolling duty, a woman aged about 29 years was seen, who was coming from village Bhungarni side towards village Panstho side. She was holding a plastic envelope of black colour. Noticing the police party, she immediately started turning silently. However, the police party apprehended her and she disclosed here name as Amarjit Kaur, the petitioner. She was made aware of her legal right to get herself searched in the presence of any Magistrate or a

Gazetted Officer. However, she expressed her consent to get herself searched by ASI Satnam Singh and the consent memo was prepared. The envelope which was in the right hand of the petitioner, was opened and intoxicating powder was found in the said envelope. The intoxicating powder was measured and it was found to be 310 grams containing the salt of 'alprazolam'. The contraband was taken in custody.

Learned counsel for the petitioner has argued that the investigating officer, who searched the petitioner was not competent to do so because the search of a lady was required to be made by some lady police official. However, the petitioner was never searched by a lady police official. Even otherwise, she is in custody for the last about more than one year and one month and the trial is not going to be concluded in near future. The police party was headed by ASI, who was not competent to make personal search of the petitioner.

On the other hand, learned State counsel has filed custody certificate, wherein the custody has not been disputed. However, learned State counsel has contended that since 310 grams of intoxicating powder containing the salt of 'alprazolam' was recovered from the petitioner, the recovered quantity falls in commercial category and as such, the petitioner is not entitled for regular bail.

I have heard learned counsel for the parties.

The allegation against the petitioner is that she was found in possession of 310 grams of intoxicating powder containing the salt of 'alprazolam'. The recovered quantity being more than 100 grams falls in

commercial category. The plea that the petitioner was searched by the investigating officer, who was not competent to make search is subject matter of adjudication during the trial more particularly when the team headed by ASI Satnam Singh also consisted a lady Constable Balwinder Kaur being its member. Therefore, this Court finds that no ground for grant of regular bail to the petitioner is made out.

Accordingly, the present petition, being devoid of any merit, is dismissed.

However, considering the fact that the petitioner is in custody for the last more than one year, the trial Court shall make an endeavour to expedite the trial.

July 11, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No