

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

206

CRM-M-885-2019 (O & M)
Date of Decision:08.03.2019

Balwinder Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ashish Aggarwal, Advocate for the petitioner.

Mr. V.G. Jauhar, Sr. DAG, Punjab.

MANOJ BAJAJ, J.

Petitioner-Balwinder Kaur has filed this petition seeking regular bail in case FIR No.125 dated 15.09.2017, under Section 22 of the NDPS Act, 1985, registered at Police Station Valtoha, District Tarn Taran.

The FIR was registered on the basis of secret information that Balwinder Kaur (petitioner) along with her co-accused namely Jassa Singh on a small vehicle make 'Chhota Hathi' under the garb of selling green vegetables was actually selling intoxicant tablets in the area. Acting upon the said information, 'naka' (check post) was set up near Phatak Main Road. Vehicle make 'Chhota Hathi' was intercepted and search was conducted. During search, 1890 loose intoxicant tablets were recovered from underneath the seat of Balwinder Kaur (petitioner) and 10000 another loose intoxicant tablets were recovered from the side of her co-accused namely Jassa Singh.

Learned counsel for the petitioner contends that the petitioner along with her husband have been falsely implicated in the present case. He submits that the mandatory provisions of Section 42 of the NDPS Act have not been complied by the police in the present case as the alleged secret information was neither reduced into writing nor sent to the higher officials. He

further submits that the mandatory provisions of Section 50 of the NDPS Act have also not been complied by the police as no option was given to the petitioner or her husband to get themselves searched either from a Magistrate or a Gazetted officer. It is further submitted that intoxicant tablets that were recovered from the vehicle were sent for chemical examination and as per the chemical examiner report dated 11.01.2018, the parcel of 10000 loose tablets were found containing Tramadol Hydrochloride whereas the second parcel of 1890 tablets were found containing the salt as Alprazolam to the extent of 0.43mg/tablet. Therefore, as per chemical examiner's report, no offence under the provisions of NDPS Act is made out with regard to the alleged recovery of 10000 lose tablets, whereas with regard to 1890 loose tablets, the same, at the most, falls within the ambit of non-commercial in nature as the actual content of the salt has been found as 0.43 mg/tablet.

On the other hand, learned State counsel on instructions from ASI Gurcharan has opposed the bail application on the ground that there is heavy recovery of intoxicant tablets from the petitioner and her co-accused. However, it is not disputed that separate recovery memos were prepared and petitioner is attributed possession of 1890 tablets.

Considering the above above background, the fact that the trial is likely to consume more time, further detention of the petitioner, who is a lady may not be justifiable. Therefore, without meaning any expression of opinion on the merits of the case, petitioner is ordered to be released on bail subject to her furnishing bail bonds and surety bonds, to the satisfaction of Trial Court/Duty Magistrate concerned.

The petition is allowed.

08.03.2019
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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No