

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

CRM-M No.8520 of 2019 (O&M)
DATE OF DECISION : 14th NOVEMBER, 2019

Rukiya Nakyanzi @ Rubia @ Nachanas

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. J. S. Bains, Advocate for the petitioner.

Mr. Harbir Sandhu, AAG, Punjab.

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RAJBIR SEHRAWAT, J. (Oral)

The present second petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of bail pending trial in case FIR No.16 dated 21.06.2018 registered under Sections 21, 29 of the NDPS Act 1985 at Police Station State Special Operation Cell, District Amritsar.

It is contended by counsel for the petitioner that the case of the petitioner is totally concocted. The alleged recovery has been implanted upon the petitioner. It is further contended that the petitioner is in custody since 19.07.2018. The petitioner is not required for any investigation purpose. Hence, the petitioner deserves to be released on bail.

Mr. Harbir Sandhu, AAG, Punjab has filed reply on behalf of the state by way of short affidavit of Mr. Baljeet Singh, Deputy Superintendent, Central Jail, Amritsar and the same is taken on record.

On the other hand, counsel for the State, on instructions submits that a heavy recovery of 1 kg of heroin has been effected at the instance of the petitioner. It is also pointed out that there is one more case under the NDPS Act against the petitioner. Hence, it is submitted that the petitioner is not entitled to bail.

Having considered the material and the arguments of the parties, this court does not find it appropriate to grant concession of bail to the petitioner at this stage.

However, the counsel for the petitioner appears to be right in submitting that the petitioner is in custody since 19.07.2018 and undisputedly, only two witnesses have been examined by the prosecution so far, out of eighteen witnesses. It has also come during the hearing that all the prosecution witnesses in the case are only the police officials. Hence, this court finds that any more detention of the petitioner in custody, without any effective proceedings being carried against her, would be unjustified. Although, because of the heavy recovery this court is not inclined to grant the bail, at this stage, however, the petitioner cannot be made to suffer incarceration just because of the laxity of the prosecution. Hence, some coercive and preemptive directions are required to be issued to the prosecution; so as to complete the trial in a time bound manner.

Accordingly, it is ordered that all the remaining prosecution witnesses shall be examined by the prosecution within a period of four months from the date next fixed before the trial court, i.e. 26.11.2019. The trial court would fix at least four dates for the evidence of the

prosecution during this period. The prosecution shall be bound to complete the evidence by the last date to be fixed by the trial court.

However, it is clarified that in case, the prosecution witnesses are not examined by the prosecution within the time period of four months, as ordered above, then the trial court shall issue warrants of arrest against all the remaining prosecution witnesses. Copy of the warrants shall be sent to the Commissioner of Police, Amritsar as well, who shall ensure that all the remaining witnesses, against whom the warrants would be issued by the trial court, are taken into custody within a period of one week from the date of issuance of warrants. After the arrest, the said prosecution witnesses shall be kept in protective custody at Central Jail, Amritsar till their examination and cross-examination is complete.

The petition is disposed of with directions as aforesaid.

14th NOVEMBER, 2019
'raj'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>