

203

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.12849 of 2020
Date of Decision: 04.06.2020

BALJIT KAUR @ BALJITOPetitioner
Vs
STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. D.S. Sandhu, Advocate
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.48 dated 07.05.2018, registered under Section 22 of the NDPS Act at Police Station Fattu DHINGA, District Kapurthala.

Petitioner was granted interim bail vide order dated 22.06.2018 by the Judge, Special Court in view of **Inderjeet Singh @ Laddi vs. State of Punjab, 2014(3) R.C.R (Criminal) 953.** Thereafter on receiving FSL report, the interim bail was cancelled. At that time, the petitioner was also involved in some other case and was apprehended in that case. She was produced from custody in the present case on presentation of

challan.

The alleged recovery from the petitioner is 110 grams of intoxicant material which is ultimately found to be Alprazolam as per report of FSL.

Learned counsel for the petitioner submitted that petitioner was never declared as proclaimed offender. In other case, in which the petitioner was arrested i.e. FIR No.100/2015 registered under Section 22 of the NDPS at P.S. Fattu DHINGA, Kapurthala, the petitioner has already been acquitted by the Addl. Sessions Judge-II, Kapurthala on 04.03.2020.

Learned counsel for the petitioner by relying upon **CRM-M No.44066 of 2019** titled '**Pritam Kaur @ Bawi vs. State of Punjab**' decided on 31.01.2020; **CRM-M No.45573 of 2019** titled '**Jaspal Singh @ Kala vs. State of Haryana**' decided on 22.01.2020; **Shinda vs. State of Punjab, 2013(3) R.C.R. (Criminal) 557** and **Lakhwinder Singh @ Bittu vs. State of Punjab, 2012(22) R.C.R. (Criminal) 301** submitted that the alleged recovery is slightly more than the quantity prescribed for commercial category. Petitioner is now in custody after cancellation of her interim bail.

Learned counsel further submitted that in view of aforesaid position, a slight departure can be made from Section 37 of the NDPS Act in view of facts and circumstances of the

case as there is possibility of error in weighing the contraband owing to different reasons.

Learned State counsel, on instructions received from the Investigating Officer however opposed the prayer on the ground that challan has been presented and charges have been framed. There is every likelihood that the trial may be concluded within a reasonable time. Evidently, charges were framed on 26.04.2020. No PW's have been examined so far.

At this stage, without adverting to the merits of the case and keeping in view the recovery of contraband which is marginally higher than the commercial quantity, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to her furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

June 04, 2020

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No