

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.216

CRM-M-17989-2020

Date of decision : 17.8.2020

Jasvir Kaur @ Fojan

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. R.P Dhir, Advocate, for the petitioner.

Mr.Ramdeep Pratap Singh, DAG, Punjab.

SUDHIR MITTAL, J. (Oral)

Reply dated 10.8.2020 has been filed by learned State counsel in Court today and the same is taken on record.

The petitioner seeks regular bail in case FIR No.125 dated 15.6.2020, registered at Police Station Mahilpur, District Hoshiarpur, under Section 304 IPC.

The FIR was registered on the complaint of one Jiwan Lal son of Sohan Lal that his son Harwinder Kumar @ Ravi was addicted and used to purchase narcotics from the petitioner. On 15.6.2020, he forcibly took money from him and went to Mahilpur. At about 8/8.15 am, information was received that his son had passed away. On reaching the spot, he saw that his son had died due to drug overdose and that the petitioner had supplied the drugs to him.

Learned counsel for the petitioner argues that a bare perusal of the FIR shows that it has been registered on the basis of suspicion. No case under Section 304 IPC, is made out against the petitioner. Photographs, annexures P-4 to P-6 show that a police naka had been set up outside the house of the petitioner and that a representation dated 10.6.2020 (annexure

P-3) has been submitted to the Deputy Commissioner in this regard. Under
RAMANDEEP SINGH
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I attest to the accuracy and
authenticity of this document

the circumstances, the deceased could not visit the house of the petitioner to purchase drugs. The petitioner has been falsely implicated as the police wanted her to deal in drugs. The case being one of false implication, the petitioner deserves to be granted regular bail.

Learned State counsel has submitted custody certificate dated 15.8.2020 and the same is taken on record. On the basis thereof, he argues that the petitioner is a habitual criminal. There are 02 other criminal cases under the NDPS Act, 1985 pending against the petitioner and 06 convictions under the NDPS Act, 1985 have been recorded against her. Thus, she does not deserve to be released on bail.

Regarding the submissions of police having set up a naka outside the house of the petitioner, nothing has been argued by learned State counsel.

In response, learned counsel for the petitioner submits that the petitioner used to deal in narcotics earlier, but has stopped doing so since 2011. All the convictions are of the said year or earlier. The petitioner has been involved in pending criminal cases by falsely implicating her and the same have been challenged before this Court. The custody certificate supports the case of the petitioner that she is being falsely implicated on account of fact that she has refused to tow the line of the police.

The evidence on record indicates that the petitioner had submitted a representation dated 10.6.2020, annexure P-3, to the Deputy Commissioner regarding the naka set up by the police in front of her house. Photographs, annexures P-4 to P-6 support the contention of learned counsel for the petitioner. Since, nothing has been argued to the contrary, it has to

be held that the police had established a naka outside the house of the petitioner at the time of occurrence of the incident, subject matter of the present FIR. Thus, I find weight in submissions of learned counsel for the petitioner that the deceased could not have visited her house for purchase of narcotics. A perusal of the custody certificate corroborates the submission of learned counsel for the petitioner that the petitioner is being falsely implicated. All the other criminal cases, in which, she has been convicted are of the year 2011 or earlier. Moreover, the FIR has been registered on the basis of suspicion and prima facie, offence under Section 304 IPC, appears to be doubtful.

Keeping in view the facts and circumstances of this case, I deem it appropriate to allow this petition. Accordingly, the petition is allowed and petitioner is ordered to be released on bail on her furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

(SUDHIR MITTAL)
JUDGE

17.8.2020
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No