

CRM-M-18384-2020(O & M)

Date of decision: 29.07.2020

Krishana alias Kuki

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Chand Ram Olla, Advocate for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

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

CRM-15893-2020

For the reasons mentioned in the application, the same is allowed and the petitioner is exempted from filing the typed/certified copies of Annexures P-1 to P-3.

CRM-M-18384-2020

Prayer in the present 1st (first) petition filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') is for grant of regular bail to the petitioner in case FIR No.283 dated 24.05.2020 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Urban Estate Hisar, District Hisar to which Section 61 of the NDPS Act was added later on.

The petitioner, who is in custody since 24.05.2020, has filed

the present petition for grant of regular bail.

The petition has been opposed by learned State Counsel. However, no reply has been filed on behalf of the respondent-State.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated. Recovery of 322 grams 66 miligrams heroin was made from the right pocket of blue jeans worn by co-accused Sukhwinder Singh @ Sukha on his personal search. No narcotic drug or psychotropic substance was recovered from the petitioner. The petitioner cannot be said to be in conscious possession of the heroin allegedly recovered from possession of her co-accused on his personal search. Rigors of Section 37(1)(b) of the NDPS Act are not applicable qua the petitioner. The petitioner is not involved in any other case under the NDPS Act. The trial is likely to take long time. No useful purpose will be served by detention of the petitioner in custody during trial. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted that the petitioner and her co-accused were apprehended by the police on suspicion and on search commercial quantity of heroin was recovered. In view of the nature of accusation, the petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

However, learned State Counsel has on instructions from ASI Krishan Kumar admitted that the petitioner is not involved in any other case under the NDPS Act.

In the present case, no narcotic drug or psychotropic substance was recovered on personal search of the petitioner or from

the vehicle on which she was travelling and recovery of commercial quantity of heroin was made from her co-accused on his personal search. The case involves debatable question as to whether the petitioner can be said to be in conscious possession of the contraband recovered on personal search of her co-accused and applicability of Section 37(1)(b) of the NDPS Act qua the petitioner is also disputed.

Keeping in view the facts and circumstances of the case, nature of accusation against the petitioner, period of her custody and the fact that trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 but without commenting on the merits of the case, I am of the considered view that the petitioner deserves grant of regular bail.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of requisite bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

29.07.2020

kavneet singh

**(ARUN KUMAR TYAGI)
JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No