

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.19282 of 2020
Date of Decision: July 24, 2020

Gulshan Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Rishav Jain, Advocate,
for the petitioner.

Mr. H.S.Sullar, DAG, Punjab.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, during trial in case FIR No.38 dated 14.04.2019, under Sections 21, 29, 31, 61, 85 NDPS Act, 1985, registered at Police Station, Sadar Nawanshahar, District Shaheed Bhagat Singh Nagar. The petitioner is in custody since her arrest on 25.05.2019.

As per the allegations in the FIR, on 14.04.2019, Constable Major Singh along with the other police officials had apprehended Mandeep Singh on the basis of suspicion of having in his possession some intoxicant substance and informed the ASI. Thereafter, ASI and DSP reached at the spot and conducted the search of Mandeep Kumar in the presence of witnesses and 150 grams heroin wrapped in a momi (plastic) envelope was recovered from the right pocket of pajama worn by him. On these broad allegations, the FIR was registered.

Learned counsel for the petitioner contends that the alleged contraband was recovered from the possession of accused Mandeep Kumar and the petitioner was not even present at the spot when the recovery was made. It is pointed out that on the statement of said accused, the petitioner has been indicted as an accused on the ground that the said contraband was received by him from the petitioner. He submits that the investigation in the case is complete and the challan was filed on 09.08.2019. According to him, the prosecution has not examined even a single witness till date and, therefore, the further custody of the petitioner may not be necessary. Further reliance is placed upon the order dated 05.02.2020 passed in CRM-M-29027-2020, whereby the petitioner was extended the concession of regular bail in case FIR No.47 dated 24.05.2019, under Sections 21, 25, 29 and 31 NDPS Act, Police Station, Sadar Nawanshahar, wherein also the petitioner was indicted as an accused on the statement of the co-accused. He has prayed that the petitioner be released on bail, during the pendency of the trial.

On the other hand, learned State counsel has opposed the prayer on the ground that the petitioner is involved in other cases also and has earned the conviction as well. However, it is not disputed that the petitioner was not present at the spot when the recovery was effected. He, on instructions from SI Darbara Singh, states that there are in all nineteen prosecution witnesses and no witness has been examined so far.

Considering the above, custody of the petitioner, who is a lady and the fact that the trial is likely to consume considerable time in the wake of outbreak of global pandemic, namely, COVID-19 in the region as certain restrictions have been imposed by State Government and District

Administration in order to curb its spread, this Court does not find any reason to decline the prayer. The petitioner, after her arrest on 25.05.2019, is presently confined in judicial custody, therefore, her further detention behind the bars may not be justified.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to her furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, S.B.S.Nagar.

The petition is allowed.

July 24, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No