

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

CRM-M-21346-2020
Date of decision:-4.8.2020

Asha Kaur @ Asha Rani

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Kulwinder Singh, Advocate
for the petitioner.

Mr.J.P. Ratra, DAG, Punjab.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition for regular bail has been filed by petitioner Asha Kaur @ Asha Rani, aged about 70 years – an accused in FIR No.153 dated 7.8.2019 for the offence under Section 22 of NDPS Act, registered at Police Station City-I Abohar, District Fazilka.

Briefly stated, facts of the case as per prosecution story are, that petitioner Asha Kaur @ Asha Rani was apprehended by a police party from Police Station City-I, Abohar on 7.8.2019 in the area of New Cotton Mandi, Abohar and the plastic bag being carried by her was found to contain 1180 intoxicant tablets. She could not produce any bill or cash memo for purchase of said tablets. She was accordingly arrested in this

case. Formal FIR was registered. The matter was investigated. She had filed a petition for regular bail before Judge, Special Court, Fazilka, which was dismissed on 20.11.2019. Thereafter, the petitioner had knocked at the door of this Court by way of filing CRM-M-52192-2019 for grant of regular bail, in which vide order dated 12.12.2019, she was granted interim bail till the next date of hearing on her furnishing bail bond and surety bond to the satisfaction of concerned CJM/Duty Magistrate and the next date of hearing was fixed as 20.2.2020. On the next date of hearing, learned State counsel submitted that report from FSL had been received, which had been submitted in the trial Court. Hearing that statement, learned counsel for the petitioner stated that he be permitted to withdraw the petition but since petitioner was an aged woman of 70 years, a direction be issued to the trial Court to complete the trial expeditiously. Accordingly, vide order of the even date, the petition was dismissed as withdrawn and a direction was issued to the trial Court to conclude the trial expeditiously by giving short adjournments refusing to grant adjournment except for justifiable reasons which be mentioned in the interim order itself.

However, surprisingly, the petitioner has not surrendered in the trial Court till now and the justification which has been tried to be given in the present petition is that since the petitioner was not aware that she was required to surrender in the trial Court, she did not do so and now bailable warrants have been issued against the petitioner. However, on account of Covid-19, she is unable to surrender before the trial Court and she is ready and willing to surrender on regular functioning of the Courts.

At the outset, it may be stated that the petitioner has grossly misused the concession of interim bail and for more than five months, she is roaming around freely without any justifiable reason. The reason given that she was not aware of the fact that she was required to surrender is least convincing and further she wants to dictate terms to the Court stating that she would surrender on regular functioning of the Court. Such type of accused misusing the concession of interim bail is certainly not entitled to any sympathy keeping in view her age etc.

Furthermore, unless the accused is in custody, a petition for regular bail is certainly not maintainable. The whole petition is misconceived and based upon misinterpretation of law. A perusal of the interim orders placed on record by the petitioner goes to show that Judge, Special Court, Fazilka has been treating the matter in a very casual manner issuing notice to the accused when coercive process should have been issued against her and notice given to her surety to cause appearance in the Court. The trial Court is to ensure that the petitioner is taken in custody at the earliest, issue non-bailable warrants against her and Senior Superintendent of Police of the District shall depute a special police officer for the purpose of execution of warrants of arrest. Any laxity in the matter shall be viewed seriously. Notice to the surety of accused and attesting witness be also issued. Proceedings under Section 446 Cr.P.C. be initiated against the petitioner and her surety and appropriate orders be passed therein.

At this stage, learned counsel for the petitioner states that he be permitted to withdraw the petition since the accused intends to

surrender in the trial Court and move petition for regular bail.

Permission is granted.

In view of the statement made by learned counsel for the petitioner, the present petition is dismissed as withdrawn.

4.8.2020

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No