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

CRM-M-35428-2020 (O&M)
Date of decision: 19.11.2020

Rajo Bai

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.S. Mamli, Advocate for the petitioner.

Mr. Rohit Arya, DAG, Haryana.

ANIL KSHETARPAL, J. (ORAL)

This is application No.3 filed for grant of bail pending trial in a criminal case arising from FIR No.0079 dated 24.02.2020 registered under Section 21(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 subsequent added) at Police Station Sadar Fatehabad, District Fatehabad.

The second application filed by the petitioner was dismissed on 29.07.2020 with the following order:-

“Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

This is second petition for grant of bail to the petitioner in a criminal case arising from FIR No.79, dated 24.02.2020, registered under Section 21(b)/27(a)/61/85 of

the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Sadar Fatehabad, District Fatehabad.

The first bail application was dismissed on 12.05.2020, with the following order:-

“Present petition has been filed by Smt. Rajo Bai under Section 439 Cr.P.C. for grant of regular bail in FIR No. 79 dated 24.02.2020 registered under Sections 21(b), 27(a), 61 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Sadar Fatehabad, District Fatehabad.

The allegations in the FIR have been noticed by the learned Additional Sessions Judge-cum-Judge, Special Court under NDPS Act, Fatehabad in para No. 2 of his order, which are extracted as under:

“As per reply filed by the police, on 24.02.2020, ASI Harpal alongwith fellow police officials was present on Bhirdana-Katakheri road for narcotic drugs checking duty. Then, one motorcycle was seen coming from the side of village Rajabad and the rider of the motorcycle was given signal by ASI Harpal for stopping his motorcycle. The rider of the motorcycle tried to turn back his motorcycle after applying sudden brakes but the rider of the motorcycle was apprehended by ASI Harpal with the help of fellow police officials. Upon inquiry, the rider of the motorcycle disclosed his name as Chiman Singh son of Kala Singh, resident of Bhirdana and the motorcycle was found without number plate and was having chasis no.11162 and engine no.38082. On having suspicion of some narcotic drug with accused, a written notice under Section 50 of NDPS Act was served upon

him by ASI Harpal by apprising him that he had a legal right to get conducted his search as well as search of his motorcycle in the presence of a gazetted officer or a Magistrate and they could be called on the spot or he alongwith his motorcycle could be produced before them. The accused submitted his written reply that he wanted to get conducted the search in the presence of a gazetted officer. Thereafter, Sh.Rajesh Garg, Naib Tehsildar was informed on his mobile and requested to reach on the spot. Sh.Rajesh Garg, Naib Tehsildar after some time visited the spot in his official vehicle and the search of accused as well as his motorcycle was conducted. One transparent plastic pouch containing heroin was recovered from the right pocket of jeans of accused Chiman Singh and the same was found 15 gms of heroin on weighment. The recovered contraband was converted into a separate parcel and sealed with seal having inscription 'HP' and Sh.Rajesh Garg, Naib Tehsildar also affixed seal 'MS' of HC Major Singh. The recovered contraband was taken into police possession vide a separate seizure memo. The case FIR was registered and the matter was investigated. The co-accused Chiman Singh suffered disclosure statement that he had purchased the recovered contraband from the present petitioner/accused Rajo Bai. The petitioner/accused was arrested on 25.02.2020."

Hearing of the case was held through video conferencing on account of lock-down.

Learned counsel for the petitioner contends that

the petitioner is sought to be implicated on the basis of the statement of a co-accused, from whom the recovery of contraband is of non-commercial quantity.

On the other hand, learned State counsel has submitted that the petitioner is a habitual offender. Previously, she has been convicted in ten criminal cases i.e. nine cases under the Punjab Excise Act, 1914 and one under Section 376 IPC. She is also involved in another criminal case under the Narcotic Drugs & Psychotropic Substances Act, 1985.

Keeping in view the facts of the case and without commenting on the merits of the case, this Court is not inclined to grant the concession of regular bail to the petitioner.

Dismissed.

Learned counsel for the petitioner failed to draw attention of the court to any change in the circumstances.

Hence, no ground to grant bail to the petitioner is made out.

Dismissed.”

Learned counsel for the petitioner has failed to make out any fresh ground to grant the concession of bail.

Accordingly, the present petition is dismissed.

19.11.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No