

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

208

CRM-M-50611-2019

Date of decision: 28.09.2020

Rajwant Kaur

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Amit Arora, Advocate
for the petitioner.

Mr. H.S. Multani, AAG, Punjab
for the State-respondent.

SUVIR SEHGAL J. (ORAL)

The hearing of this petition has been taken up through video conferencing on account of outbreak of Covid-19 Pandemic.

Through the present petition filed under Section 439 of the Code of Criminal Procedure, 1973, the petitioner is seeking concession of regular bail in case FIR No.121 dated 29.07.2019 registered under Section 22 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station City Patti, District Tarn Taran, Annexure P-1. A further prayer for grant of interim bail has been made in terms of the judgment passed by this Court in ***Inderjit Singh @***

Laddi and others Vs. State of Punjab, 2014 (3) RCR Criminal 953, as the report from the chemical examiner has not been received.

As per the version of the prosecution, the FIR, Annexure P-1 was registered against the petitioner as she was apprehended with 1900 intoxicating tablets and during her disclosure statement, she had stated that the same had been purchased by her from one, Jasbir Singh, who was nominated as an accused in the FIR.

Counsel for the petitioner has argued that the petitioner has been falsely implicated and there is no material on the record to connect the petitioner with the alleged recovery. He urges that at the time of her personal search, the mandatory provisions of Section 50 of the NDPS Act were not complied with. He submits that the petitioner is in custody since July, 2019 and deserves to be enlarged on bail as the trial is not progressing. He has relied upon the order dated 25.09.2020 passed by this Court in CRM-M-48634 of 2019, in the case of the co-accused, Jasbir Singh.

Opposing the bail, learned counsel for petitioner has submitted that the recovery effected from the petitioner was Tramadol and the total quantity recovered from her is commercial. He submits that the bar under Section 37 of the NDPS Act is attracted and the petitioner does not deserve the concession of bail. He further submits that the final report under Section 173 Code of Criminal Procedure was filed on 16.01.2020, charges were framed on 04.02.2020 and the trial is under way. He has filed the custody certificate dated 28.09.2020, which has been taken on record and copy thereof has been supplied to counsel for

the petitioner.

I have considered the rival submissions of the parties.

During the pendency of the instant petition, the State filed the report dated 09.10.2019 of the Regional Testing Forensic Science Laboratory, Punjab (for short 'FSL report') which was taken on record by this Court vide order dated 08.01.2020. As the FSL report stands submitted, the prayer of the petitioner for grant of interim bail does not survive.

A perusal of the FSL report shows that the contraband recovered from the petitioner was found to be "Tramadol Hydrochloride" and the average weight of each tablet was 408 mg. The total weight of the tablets recovered from the petitioner works out to (408 mg x 1900 tablets) 775.200 grams, which admittedly falls within the ambit of commercial quantity under the provisions of the NDPS Act. Consequently the rigor of Section 37 (1) (b) of the NDPS Act is attracted and the petitioner cannot be granted bail pending trial.

Insofar as the reliance placed by the petitioner upon the order dated 25.09.2020 is passed in the case of the co-accused is concerned, an examination thereof shows that the co-accused, Jasbir Singh, is a licenced chemist, who possesses a valid licence issued to him under the Drugs and Cosmetics Rules, 1945 which was renewed from 06.06.2016 to 05.06.2021. No recovery was effected from him and he had been nominated as an accused on the basis of the disclosure statement of the present petitioner. Therefore, there is no parity in the case of the petitioner with that of co-accused.

Keeping in view the totality of facts and circumstances, the petitioner does not deserve the concession of regular bail. Her petition is, accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

28.09.2020

pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No