

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

221

**CRM-M-12371-2021
Date of decision: 22.03.2021**

Jogindro

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Simsi Dhir Malhotra, Advocate
for the petitioner.

Mr. P.S. Walia, Asstt. A.G., Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

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

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.421 dated 28.12.2020 registered under Section 15(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") at Police Station Lambi, District Sri Muktsar Sahib.

The petitioner being in custody has filed the present petition for grant of regular bail.

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

Custody certificate has been filed by the learned State Counsel through e-mail print out of which is taken on record.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated. Mandatory provisions of the NDPS Act were not complied with. No independent witness was joined at the time of alleged recovery. As per the prosecution version recovery of 20 Kgs. of poppy husk from possession of the petitioner and co-accused Deesho falls in the category of non-commercial quantity and rigors of Section 37(1)(b) of the NDPS Act are not applicable to the present case. The petitioner has been convicted in another case under the NDPS Act but her sentence has been suspended by this Court. The trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19 and no useful purpose will be served by further 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 is accused of having committed serious offence. In view of nature of accusation and gravity of the offence, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, inapplicability of rigors of Section 37(1)(b) of the NDPS Act and the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

In view of the above, the petition is allowed and the

petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that she shall not commit any offence under the NDPS Act after her release on bail and in case of commission of any such offence by her in future, her bail in the present case shall also be liable to be cancelled on application to be filed by the prosecution in this regard.

22.03.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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