

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

214

CRM-M No.26033 of 2021 (O & M)  
Date of decision:25.08.2021

Sunita

... Petitioner

Vs.

State of Punjab

... Respondent

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. K. S. Sidhu, Advocate  
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

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**SUVIR SEHGAL J. (ORAL)**

Heard through video conferencing.

This is the second petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.120, dated 26.08.2020 registered under Sections 22(c) and 25 of the NDPS Act, 1985, (Section 29 of the NDPS Act was added later on) at Police Station Dhanaula, District Barnala.

FIR came to be registered when Abhishek Sharma, who was riding a motorcycle was intercepted and a bag containing 9000 tablets was recovered from him.

Counsel has urged that the petitioner is a 36 years old house wife and has been arraigned as an accused on the basis of disclosure statement of accused Abhishek Sharma, who claimed that he had

supplied intoxicating tablets to the petitioner, who used to sell them to customers. Counsel urges that the statement of co-accused recorded in police custody, is inadmissible in evidence. He has placed reliance upon the judgment of Hon'ble Supreme Court in **Tofan Singh versus State of Tamil Nadu (2021) 1 RCR (Criminal) 1**. It has been asserted by the counsel that the petitioner was named as an accused in two other cases, both of which have been registered against her for offences under the NDPS Act, but she stands acquitted in both of them vide judgments, Annexures P-3 and P-4 respectively. Counsel submits that the first petition (CRM-M-9266-2021) filed by the petitioner was withdrawn, after arguments on 22.04.2021 and thereafter the charges have been framed, yet despite lapse of a long time after her arrest, prosecution evidence has not started, which will amount to change in circumstances to enable her to approach this Court again with a fresh petition. He submits that the petitioner, who is in custody, since 13.12.2020, is no longer required for custodial interrogation as investigation is complete, challan has been presented and charge has been framed and she deserves to be released on bail.

Opposing the petition, learned State counsel upon instructions from ASI Gurtej Singh, submits that recovery of 9000 tablets of *Alprazolam* was effected on the statement of accused Abhishek Sharma and another recovery of 180 tablets of *Tramadol* was effected from him, which is alleged to have been purchased by him from accused Naresh Mittal. On the basis of instructions received, State counsel is not in a position to dispute the fact that the petitioner has been nominated on the

basis of the disclosure statement of Abhishek Sharma. Upon further instructions, he submits that charges has been framed on 20.08.2021, though the testimony of the prosecution witnesses is yet to be recorded.

Having examined the facts and circumstances of the case, the Court is of the opinion that the petitioner has been arraigned as an accused on the basis of a disclosure statement, the legality and veracity of which is yet to be tested and no recovery has been effected from her. Considering the period of incarceration and the fact that the petitioner is a lady and the trial is likely to take time to conclude, this Court is prima facie of the view that she would be entitled to be released on bail

Without commenting upon the merits or de-merits of the arguments addressed by the counsel for the parties, the petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

While being released on bail, the petitioner shall furnish an undertaking to the effect that henceforth, she will not get involved in any criminal activity. In case, the petitioner violates the undertaking, it shall be open to the State to seek cancellation of bail.

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

25.08.2021  
*sheetal*

(SUVIR SEHGAL)  
JUDGE

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|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |