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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31052-2021

Date of Decision: 10.08.2021

Kanso @ Kalawati

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Shalender Mohan, Advocate for the petitioner.

Kanwar Sanjiv Kumar, AAG, Haryana.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail, pending trial in case FIR No.309 dated 19.05.2020 registered under Section 188 IPC and Sections 20 and 29 NDPS Act, 1985 at Police Station Shivaji Colony, Rohtak. The petitioner is in custody since her arrest on 12.04.2021.

The FIR was registered on the basis of secret information and the allegations noticed by the Addl. Sessions Judge, Rohtak in the order dated 20.07.2021, while declining the bail application of petitioner, read as under:

“Briefly the prosecution case is that the present case was registered on the basis of complaint made by SI Rohtash, who has stated that on 19.05.2020, he along with other police officials was present at Bhiwani Road, near Balaji Tiles Rohtak. There a secret information was received that one Sripal son of Risala is carrying Ganja Patti in a private vehicle Scorpio Car No.HR-29-AE-8604 from the side of Hissar Bye pass and will go to Bhiwani. If raid is conducted he can be caught along with contraband at the spot. Notice under Section 42 NDPS Act was sent and necessary report was registered in the police station. SI Rohtash along with other

police officials reached at the spot, where one person was seen coming from Hissar Bye Pass in vehicle No.HR-29-AE-8604 and was signaled by SI to stop. But the driver ignored the signal, so SI with the help of other police officials tried to apprehend that person. The driver at some distance stopped his vehicle and by taking the benefit of darkness, left the vehicle and ran away. SI along with other police officials tried to trace him but could not find. The said vehicle was checked. DSP was also called at the spot. It was found that there was 22 kgs. of Ganja Patti in the said vehicle. One mobile phone having marka Lava was also recovered from the said vehicle. The aforesaid vehicle, contraband and one mobile phone lying in the said car were taken into police possession. Necessary samples were drawn. Offence under Section 20 of NDPS Act and Section 188 IPC was made out.”

Learned counsel for the petitioner has argued that the alleged contraband (22 kgs of ganja patti) was found in possession of her co-accused Sripal, who managed to escape at the time of recovery. He further submits that on the basis of his disclosure statement, the petitioner was indicted as a co-accused and, therefore, the case of the prosecution qua her is comparatively based on a weak nature of evidence. He submits that as the investigation of the case is complete, therefore, her further custody may not be necessary. He prays for bail.

Learned State counsel does not dispute the above fact and on instructions from ASI Rajesh further states that even Sripal has already been relased on bail under Section 167 (2) Cr.P.C.

After hearing the learned counsel for the parties, this Court finds that though the challan has been filed on 10.07.2021, but the trial is yet to commence, therefore, it is evident that the conclusion of trial would take considerable time. Apart from it, the co-accused of the petitioner has been released on regular bail, thus, the further detention of the petitioner behind the bars may not be necessary for any useful purpose, who is presently confined in judicial custody after her arrest on 12.04.2021.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to her furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate Rohtak.

The petition is allowed.

10.08.2021
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No