

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

CRM-M-26124 of 2020 (O&M)
DATE OF DECISION :- February 09, 2021

Anil @ Kala

...Petitioner

Versus

State of Haryana

...Respondent

CRM-M-39636 of 2020

Sharmila

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. K.L. Saini, Advocate for the petitioners.

Mr. Karan Garg, AAG, Haryana.

CRM-2853 of 2021 in
CRM-M-26124 of 2020

This is an application for placing on record copy of the order dated 4.11.2020 of co-accused namely Sonu passed by this Court in CRM-M-26815 of 2020.

Heard.

Allowed.

CRM-M-26124 of 2020 and
CRM-M-39636 of 2020

The case has been taken up through Video Conferencing.

My this order shall dispose of two petitions for grant of regular

bail bearing CRM-M-26124 of 2020 filed by Anil @ Kala and CRM-M-39636 of 2020 filed by Sharmila, both of them accused in F.I.R. No. 104 dated 2.7.2020 for offences under Sections 21(b), 27-A of NDPS Act registered with Police station City Narwana, District, Jind.

Briefly stated the facts of the case as per prosecution story are that on 2.7.2020 when apprehended by the police party in the area of Chamela Colony, Hisar Road, Narwana Baba Gaibi Sahib Service Station within jurisdiction of Police Station City Narwana, petitioner accused Sharmila was found in possession of 100 grams of heroin. She was arrested in this case. The recovered contraband was seized. Formal F.I.R in the matter was registered. The investigation in the case started. The investigation revealed that out of the recovered contraband from petitioner accused Sharmila she had purchased 50 grams thereof from co-accused Sonu whereas remaining 50 grams had been brought by her husband Anil @ Kala, who is petitioner accused in CRM-M-26124 of 2020. Petitioner accused Anil @ Kala was arrested in this case on 4.7.2020. Anil @ Kala and Sharmila had filed an application for grant of regular bail before the Court of Sessions at Jind. Their such application was assigned to Additional Sessions Judge, Jind, who vide order dated 26.8.2020 had dismissed the same. Feeling aggrieved, both of them have knocked at the door of this Court craving for grant of similar relief by way of filing separate petitions. Those petitions are being resisted by the State.

I have heard learned counsel for the petitioners and learned State counsel besides going through the record.

As far as petition filed by Anil @ Kala, he had not been arrested from the spot along with the contraband and was nominated during investigation of the case. Though as mentioned in the order passed by learned Additional Sessions Judge, Jind on the basis of reply filed by the State there,

earlier he was involved in two more criminal cases and he had been convicted in one of the case under the Excise Act in the year 2012 but I find that the contraband involved in this case amounts to non-commercial quantity which does not attract bar of Section 37 of the NDPS Act and considering the period of his custody and that the trial is at the initial stage, inasmuch as charge is yet to be framed and completion of the trial is likely to take some time, I find it proper and appropriate to extend benefit of regular bail to petitioner Anil @ Kala, more particularly when his co-accused Sonu has been granted similar benefit by this Court while allowing CRM-M-26815 of 2020 decided on 4.11.2020. Copy of that order is placed on record as Annexure P-2. As far as petitioner Sharmila is concerned she is a woman, the recovery effected from her amounts to non-commercial quantity; she is in custody since 2.7.2020. Though she is stated to be involved in one more criminal case under various provisions of Indian Penal Code but in my considered view that should not come in the way of her being granted regular bail considering the totality of circumstances, therefore, the petition filed by her also deserves to be accepted.

Resultantly, both the petitions are allowed and petitioners Anil @ Kala and Sharmila are ordered to be released on bail on their furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court/CJM/Duty Magistrate, Jind subject to the following conditions :-

- (i) they shall appear in the Court on each and every date of hearing.
- (ii) they shall not give any threat or intimidation to the prosecution witnesses.
- (iii) they shall not leave India without prior permission of the Court and shall surrender their Passports, if they have got one, otherwise to furnish affidavits in that regard.
- (iv) they shall not indulge in any criminal activity.

- (v) they shall join the investigation as and when directed by the Investigating Officer.
- (vi) they shall got their presence marked in the local police station on every Saturday of the week between 11.00 A.M. to 2.00 P.M. so that an eye can be kept on their movements and they are deterred from indulging in any criminal activity.

In case the petitioners violates any term and condition on which the bail has been granted to them, the prosecution would be entitled to apply for cancellation of bail.

(H.S. MADAAN)
JUDGE

February 09, 2021
p.singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No