

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CRM-M-37168 of 2020
Date of Decision: 24.02.2021

Gurpreet Kaur

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Jashandeep Singh Sandhu, Advocate,
for the petitioner.

Mr. Bhupinder Beniwal, AAG, Punjab.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 of the Cr.P.C., upon FIR no.25, dated 06.04.2020, having been registered at Police Station Smalsar, District Moga, , alleging therein the commission of offences punishable under Sections 22, 25 and 29 of the NDPS Act, 1985.

Learned counsel for the petitioner submits that the petitioner having been initially admitted to bail under the provisions of Section 439 of the Cr.P.C. by the trial court itself, on the ground that the FSL report showing the quantity of the contraband stated to have been recovered from her co-accused had not determined,

the FSL report was thereafter received on 03.12.2020, showing that the amount of contraband was above small quantity but below commercial quantity.

She is stated to have immediately thereafter filed an application under the provisions of Section 438 of the Cr.P.C. before the learned trial court, seeking to be admitted to bail, which has however been dismissed, therefore leading to the filing of the present petition before this court.

Learned State counsel at the outset raises an objection on the maintainability of this petition, on the ground that once the petitioner had been admitted to bail under the provisions of Section 439 of the Cr.P.C., an application subsequently moved under the provisions of Section 438 thereof would not be maintainable, in respect of which he cites a judgment of this court in **Balwant Singh Banta v. State of Punjab (CRM-M-15464 of 2019, decided on 04.04.2019).**

Learned counsel for the petitioner, in view of the above, does not press the petition but submits that the petitioner, upon surrendering before the trial court and filing an application again under the provisions of Section 439 of the Cr.P.C., that be decided expeditiously.

Consequently, this petition is dismissed as not having been pressed, with a direction issued that upon the petitioner surrendering, if she is arrested and she files a petition under the provisions of Section 439 of the Cr.P.C., that petition be dealt with and decided expeditiously, on its own merits.

February 24, 2021
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No