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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.44265 of 2020 (O&M)

Date of decision: 04.08.2021

Balvir Kaur

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

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

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.45 dated 24.04.2020, for offence punishable under Sections 22/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station Sadar Rampura, District Bathinda.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of ASI Baljeet Pal, the police party, while on a patrol duty received an information on phone by HC Jagjit Singh that a lady carrying polythene bag is standing and on seeing the police party, she has gone to her house. Upon this, he along with his fellow police officials followed her and apprehended her as she was carrying a transparent polythene bag in which some pink coloured tablets of Alprazolam 0.5 was seen. On receiving the information, the Investigating Officer along with the co-officials

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reached at the spot and on interrogation, she disclosed her name as Balvir Kaur. Thereafter, the search of the polythene bag which she was carrying was conducted and 2500 tablets of Alprazolam were recovered.

Counsel for the petitioner has further argued that as per the allegations in the FIR when the petitioner was apprehended by HC Jagjit Singh, he was not accompanied by any lady police official, however, as per the case of the prosecution when the Investigating Officer reached at the spot, he was accompanied by a lady police official.

Counsel for the petitioner has also submitted that the petitioner is a widow lady having her own family to support and she is not involved in any other case and is in custody for the last 01 year and 03 months. It is also argued that challan stands presented, however till date, even charges have not been framed and it will take some time in conclusion of the trial. It is further submitted that it is apparent from the FIR that though the search of the polythene bag and personal search was conducted, however, no notice under Section 50 of the NDPS Act was given and therefore, it will be a matter of trial whether the search was conducted in a proper manner or not.

Lastly, it is argued that it not stated in the FIR that on receiving the information from HC Jagjit Singh, any ruqa was sent to the Police Station for registration of the FIR and information in terms of the provisions of Section 42 of the NDPS Act, were complied with or not and all these things need to be finally decided during the course of trial.

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Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 01 year and 03 months; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation and also in view of the fact that the petitioner has raised certain points regarding the shortcomings in the investigation, this petition is allowed and the petitioner is directed to be released on bail subject to her furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

04.08.2021

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No