

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

211

CRM-M-52203-2021

Date of Decision : December 17, 2021

REHMA @ RAHMA ADAM SELEMANI

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Tarun Singhal, Advocate
for the petitioner.

Mr. Arun Kaundal, Deputy Advocate General, Punjab.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.188 dated 14.9.2019 under Section 21 of the the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Kotwali, Kapurthala, District Kapurthala.

The learned counsel for the petitioner has submitted that the petitioner is a foreign national and she has been falsely implicated in the present case and she has undergone two years and three months and no prosecution witness has been examined till date although the charges were framed on 16.4.2021. He has further submitted that in view of the fact that the petitioner is not involved in any other case and in view of the aforesaid position, she may be considered for the grant of regular bail.

On the other hand, Mr. Kaundal, learned Deputy Advocate General, Punjab has submitted that it is a case where the petitioner, who

is a citizen of Tanzania was caught on the spot by the police party while she was trying to flee away and at that time she had 2 kgs of Heroin which was to be handed over to the other co-accused, namely, Narinder Singh @ Nindu who was driving the car and although the other co-accused fled away from the spot but the petitioner was caught on the spot and she was scheduled to deliver the Heroin to the aforesaid Narinder Singh @ Nindu. He submitted that the aforesaid Narinder Singh @ Nindu is accused in four more cases under the NDPS Act whereby he has been accused for getting the contraband and he is facing trial. He submitted that although the aforesaid Narinder Singh @ Nindu has been granted anticipatory bail by this Court but so far as the petitioner is concerned, she was caught on the spot with 2 kgs of Heroin which is a commercial quantity and, therefore, the prayer of the present petitioner is hit by the bar contained under Section 37 of the NDPS Act. He further submitted that there is no ground available with the petitioner to seek departure from the bar contained under Section 37 of the NDPS Act.

I have heard the learned counsels for the parties.

The petitioner is in custody from 14.9.2019 and as per the learned counsel for the parties, the charges were framed on 16.4.2021 but no prosecution witness has been examined till date. From the facts and circumstances of the present case, the prayer of the petitioner for grant of regular bail would certainly be hit by the bar contained under Section 37 of NDPS Act. However, the custody of the petitioner is also a relevant factor.

Since no ground has been made out in the present case for making departure from the bar contained under Section 37 of the NDPS Act, the present petition is, hereby, dismissed.

However, considering the custody of the petitioner and the fact that till date no prosecution witness has been examined, the trial Court is directed to expedite the trial and conclude the same preferably within a period of six months.

December 17, 2021	(JASGURPREET SINGH PURI)
ajay-1	JUDGE
Whether speaking/reasoned.	: Yes/No
Whether Reportable.	: Yes/No