

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-44311-2019 (O&M)
Date of Decision:- 8.4.2021

Payal ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by SI Rampal.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

CRM-11299-2021

In view of the reasons mentioned in the application, the same is allowed and the documents annexed with the application are taken on record as Annexures P-13 to P-18.

CRM-M-44311-2019 (Main Case)

1. The petitioner seeks grant of regular bail in respect of a case registered vide FIR No.0043 dated 29.5.2019 at Police Station Special Task Force, District STF Wing, SAS Nagar under Sections 21, 25, 27-a and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The FIR in question was lodged on the basis of receipt of secret information to the effect that Kewal Krishan @ Kala, Sanjiv Kumar @ Sunny, Payal and Poonam Rani indulge in sale of 'heroin' and that on the given day they were coming together in a car bearing registration No.PB-10-FC-2234. Pursuant to receipt of said information, the police was able to apprehend the accused in a car. Out of the 4 accused, one managed to escape i.e. Sanjiv Kumar @ Sunny, while the other three were apprehended at the spot. Kewal Krishan @ Kala, who was at the wheel of the car, was found in possession of 300 grams of 'heroin'. The lady sitting by his side namely Poonam Rani was found to be carrying 1 kg. of 'heroin' alongwith cash amount of ₹2 lakhs and the petitioner namely Payal, who was sitting on the rear seat, was found to be carrying 900 grams of 'heroin', which was kept in her purse.
3. Learned counsel for the petitioner has submitted that it is a case where the petitioner has been falsely implicated and infact she was arrested from her house when the police raided her house in order to look for her husband against whom the police had information that he was indulging in drug trafficking. Learned counsel submitted that while the petitioner's husband namely Sanjiv Kumar @ Sunny ran away from the spot, the petitioner, who was present in the house, was arrested and was later on implicated in a false case.
4. Learned counsel for the petitioner has further submitted that the petitioner is a young girl aged about 22 years and that she was married to Sanjiv Kumar @ Sunny in the year 2017, but since there was some kind of matrimonial discord, she had been residing separately since December, 2018. It has further been submitted that the petitioner infact has been pursuing her studies and infact has always been good in her studies as would be evident

from her academic certificates (Annexure P-15). Learned counsel has further submitted that infact even around the time when she was arrested i.e. on 29.5.2019, she was appearing in her B.A. (Final) examination and had taken one of her examination on 28.5.2019. Learned counsel, in this regard, has drawn the attention of this Court to the roll number of the petitioner annexed as Annexure P-6, which shows that she had opted for Political Science as one of the subjects. Learned counsel has next referred to the Date-Sheet (Annexure P-6), which shows that the Political Science examination was to be held on 28.5.2019. Learned counsel for the petitioner has stated at bar that the petitioner had taken the said examination on 28.5.2019. It has thus been submitted that when the petitioner was busy in her examination, it cannot be expected that immediately on the next day of examination she would indulge in drug trafficking.

5. Learned counsel for the petitioner has next submitted that infact on account of conduct of the petitioner's husband, she had started residing separately but on account of intervention of some respectables she had joined his company immediately on the next day after taking her examination on 28.5.2019, when unfortunately she came to be arrested.
6. Learned counsel for the petitioner has further submitted that the petitioner is presently having a 2 years old child who will unnecessarily suffer as he would also have to remain confined in jail alongwith the petitioner at such tender age when care of mother is required.
7. Learned State counsel has however, opposed the petition while submitting that since a huge quantity of 'heroin' was recovered from the petitioner as well as from the co-accused, no case for grant of bail is made out. Learned

State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 1 year and 7 months and that she is not involved in any other case.

8. I have considered rival submissions addressed before this Court.
9. It is no doubt correct that as per case of the prosecution the petitioner was found in possession of 900 grams of 'heroin'. However, keeping in view the fact that the petitioner is a young girl and has been pursuing her studies and had infact appeared in her B.A (Final) Political Science examination one day before she was apprehended, and has claimed that she has been residing separately and has also subsequently filed a divorce petition, it would be debatable as to whether the version of the prosecution is truthful or as to whether the petitioner has been falsely implicated as alleged by her. In any case, since the petitioner is a lady and is having a 2 years old child and has already been behind bars since the last about 1 year and 7 months, therefore, keeping in view the said facts especially of the minor child and the custody period, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to her furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
10. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

8.4.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No