

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-4100-2022 (O&M)
Date of decision: 10.03.2022

Payal @ Preeti Gambhir

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ruhani Chadha, 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 in FIR No.126 dated 01.08.2019 under Section 21 of NDPS Act and Section 29 of NDPS Act (added later on), registered at Police Station Sadar Kapurthala, District Kapurthala.

Learned counsel for the petitioner submits that as per allegations in the FIR, on 01.08.2019, a car i20 was parked near a police barrier and Constable Vikram identified the persons sitting in that car as Rajbir Singh, Sukhjiwan Singh sons of Balwant Singh resident of Latianwal, Lovepreet Singh @ Lovely son of Gurcharan Singh resident of Shanchan and Hans Raj (co-petitioner) son of Dara Singh, Dilbag Singh son of Balwinder Singh, resident of

Latianwal Police Station Sultanpur Lodhi and on seeing the police party, they got perplexed and ran away from the spot and the said car was driven by Rajbir Singh. Thereafter, a person got down from an auto and on suspicion, he was apprehended by the police and informed his name as Kapil Arora son of Manohar Lal Arora resident of New Delhi and then, an information was sent to the Police Station for sending an Investigating Officer. Upon this, the second Investigating Officer came at the spot and upon verification, again found that name of the person is Kapil Arora. Thereafter, an information was sent to the Deputy Superintendent of Police, Sub-Division Kapurthala, being a Gazetted Officer, for conducting the search and in his presence, 05 Kgs of Heroin was recovered from Kapil Arora.

Learned counsel further submits that the petitioner is wife of co-accused Deepak Kumar and was not named in the FIR and her name surfaced in the disclosure statement of co-accused Kapil Arora, from whom recovery of heroin was effected. It is also submitted that in fact, husband of the petitioner, namely Deepak Kumar, has chequered history of involvement in other cases and on that account, she has also been nominated in the present case.

Learned counsel has relied upon a judgment of the Hon'ble Supreme Court in **State by (NCB) Bengaluri Vs. Pallulabid Ahmad Arimutta and another [SLP (Crl.) No.242 of 2022, arising out of Diary No.22702 of 2020, decided on 10.01.2022]**, wherein, while relying upon earlier judgment in ***Tofan Singh Vs. State of Tamil Nadu, 2013(4) RCR (Criminal) 631***, it is held that a confessional statement recorded under Section 67 of NDPS Act will remain inadmissible in the trial of an offence under the NDPS Act. It is

thus submitted that it would be a matter of trial whether disclosure statement of one accused is admissible against another accused. It is further submitted that the petitioner is in custody since 22.09.2021 and needs urgent medical care and as per affidavit of Superintendent, Central Jail, Kapurthala, supported by report of the Medical Officer, Central Jail, Kapurthala, the petitioner needs to visit the hospital on regular basis. The observations made in the medical report read as under: -

“As per recent records Payal @ Preeti W/o Deepak Kumar presented with complaint of bleeding per vaginum, two month of pregnancy and body weakness on 23.10.2021 for which patient was referred to Civil Hospital, Kapurthala in gynae department. Patient is a known case of Marfan’s syndrome and thalasemia. Patient was examined and further referred to Guru Nanak Medical College Amritsar on 26.10.2021 in gynae department. Where patient was treated in conservative manner one PRBC transfused. Ultrasound uterus/adnexa done which showed small sac like structure seen at cervical canal with minimal vascularity and medicine given and patient was discharged on 28.10.2021 in stable condition and prescribed medicine for five days and advised follow-up in case of excessive bleeding episode repeats. Currently Patient’s vitals are within normal limits and stable in condition while taking medicines.”

Learned State counsel could not dispute that the petitioner was nominated on the disclosure statement of co-accused Kapil Arora. He has filed the affidavit of Superintendent, Central Jail, Kapurthala, wherein the aforesaid medical report is submitted.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering long custody of the petitioner

and also in view of the fact that challan stands presented and it will take some time in conclusion of the trial, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

10.03.2022
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No