

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

CRM-M-4814-2022(O&M)
Date of Decision:-**14.09.2022**

KALI KAUR

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

-.-

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-.-

Present:- Mr. Narinder S. Lucky, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

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KARAMJIT SINGH, J. (Oral)

Prayer is for grant of regular bail in case having FIR No.170 dated 28.11.2021 registered under Sections 21/25/29 of NPDS Act at Police Station Dhanaula, District Barnala.

As per the allegations appearing on the record on 28.11.2021, the police received secret information against non-applicants Rani Kaur, Dilbagh Singh, Rajni Bala @ Rosy & Jagsir Singh and then police apprehended the said non-applicants who were travelling in a car and 400 grams of Heroin was recovered from the possession of non-applicant/Rani Kaur. Thereafter the present petitioner was nominated as an accused and

arrested on 16.12.2021 and 10 grams of Heroin was recovered from her possession.

The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and was not named in the FIR and arraigned as accused on the basis of alleged disclosure made by co-accused Rani Kaur. The counsel for the petitioner further submits that the relevance and credibility of the said disclosure would be considered by the trial Court at the appropriate stage of the trial. The counsel for the petitioner further submits that the petitioner is not related to the main accused Rani Kaur in any manner. The counsel for the petitioner further submits that as per prosecution version only 10 grams of Herion was recovered from the petitioner, which comes under non-commercial quantity and the petitioner is in custody for the last about 9 months and after completion of investigation challan has been presented and charges have been framed, but it will take time for the trial to conclude. So prayer is made for grant of regular bail to the petitioner.

The instant petition is opposed by the State counsel, who submits that 400 grams of Heroin was recovered from the car in which aforesaid non-applicants were travelling including Rani Kaur. The State counsel further submits that the petitioner was nominated as an accused on the basis of the disclosure of said Rani Kaur and consequently 10 grams of Heroin was recovered from the petitioner. The State counsel further submits that the present case involves recovery of commercial quantity of contraband and as such rigors of Section 37 of NDPS Act are applicable. The State

counsel further submits that the trial is at its initial stage and as such no ground is made out to grant bail to the petitioner at this stage.

I have considered the submissions made by counsel for the parties.

Admittedly the petitioner was not named in the FIR. As per prosecution version 400 grams of Heroin was recovered from the possession of non-applicant Rani Kaur who was travelling in a car with non-applicant Dilbagh Singh, Rajni Bala @ Rosy and Jagsir Singh on 28.11.2021. There are also allegations that aforesaid Rani Kaur made disclosure against the present petitioner and accordingly the present petitioner was nominated as an accused and 10 grams of Heroin was recovered from her possession on 16.12.2021 and since then she is in custody in the present case. The State counsel has failed to show that the present petitioner was having any acquaintance with aforesaid Rani Kaur. The State counsel has admitted that there is no call detail record to connect the petitioner with recovery of 400 grams of Heroin from the possession of Rani Kaur.

It is a moot point as to how the petitioner is liable for recovery of 400 grams of Heroin, which is stated to have been effected from conscious possession of Rani Kaur.

As per prosecution version, only 10 grams of Heroin was recovered from the conscious possession of the petitioner, which comes under non-commercial quantity and thus embargo of Section 37 NDPS Act is not applicable to the case of the petitioner.

Further the police has presented the challan after completion of investigation and charges have been framed, but it will take considerable time for the trial to conclude. As per the custody certificate furnished by the State counsel, the petitioner is already in custody for about 9 months and is recorded to be on bail in the another criminal cases which are being faced by her.

In view of the above, as it will take time for the trial to conclude, so no purpose is going to be served by keeping the accused behind the bars for any longer period.

Thus without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to her furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

14.09.2022
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No