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

CRM-M-5606-2021 (O&M)
Date of decision : 03.08.2022

Rani Kaur

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Gaurav, Advocate,
for Mr. P.S. Sekhon, Advocate,
for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

MAHABIR SINGH SINDHU, J.

Third petition has been filed under Section 439 Cr.P.C. for grant of bail pending trial to the petitioner in FIR No.33 dated 18.02.2019 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station City-I, Sangrur, District Sangrur.

2. Allegations are that on 18.02.2019 at about 4.30 p.m., when the police party was on patrolling duty at 'T' point Baguana Basti, Main Road, Ubhawal Road, Sangrur, secret information was received to the effect that petitioner, who had been indulging in sale of intoxicants, could be apprehended and cache of intoxicating tablets could be recovered from her. Acting on the tip off, barricade was put and petitioner was intercepted. In the process, she threw a polythene bag carried by her, which was recovered

and found to be containing 99 strips of Clovidol 100 SR (each strip containing 10 tablets); and 38 strips of Alprasaft-0.5 (each strip containing 10 tablets).

3. This Court, on 31.08.2021, granted interim bail to the petitioner in the following manner:-

“Learned State counsel seeks time to file status report by way of affidavit regarding investigation in FIR No.135 dated 08.09.2019, under Sections 166, 167, 177, 193, 195 & 211 of the Indian Penal Code, 1860; and Section 58 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station City-I, Malerkotla.

On request, posted on 03.11.2021.

In view of the facts that petitioner is a female; stated to be in custody since 18.02.2019 (except for the period from 03.08.2021 to 09.08.2021 when she was granted temporary bail on account of marriage of her two daughters); and there is no progress in trial, therefore, till the next date of hearing, she be released on interim bail in this case on her furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned. ”

4. Learned counsel for petitioner, *inter alia*, submits that the petitioner was falsely implicated by Sub Inspector Kewal Krishan from CIA Staff Bahadar Singh Walla, who himself is involved in a number of criminal cases. Further contends that the present prosecution was launched on the basis of secret information, but that was never reduced into writing; thus,

there is a breach of mandatory provision of Section 42 of the NDPS Act. He further submits that after grant of interim bail, petitioner has been regularly appearing before the Court below and there is no apprehension or allegation that she is likely to threaten the prosecution witnesses or hamper the trial in any manner.

5. Learned State Counsel, on instructions, does not dispute the above factual position; rather acknowledged that SI Kewal Krishan, Investigating Officer, is facing criminal as well as departmental proceedings.

6. In view of the above, there is no hesitation to record twin-test satisfaction in terms of Section 37 of the Act to the following effect:-

(i) As noticed hereinabove, *prima facie*, there is a violation of Section 42 of the Act as the alleged secret information was never reduced into writing; thus, it can be termed as a reasonable ground for believing that petitioner is not guilty of offence at this stage;

(ii) Petitioner was granted interim bail and has not misused the concession thereof; thus she is not likely to commit any offence in case released on regular bail.

7. In such a situation, sending the petitioner in custody at this stage would not serve any purpose.

8. As a result thereof, the present petition is allowed; and interim bail granted to the petitioner, vide order dated 31.08.2021, is made absolute. Petitioner be admitted to bail on furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate

concerned.

9. Petitioner shall fully co-operate with the learned trial Court without seeking any unnecessary adjournments.
10. The above observations may not be construed as an expression of opinion on the merits of the case.
11. It is clarified that in case there is any misuse of concession of bail on the part of the petitioner, State of Punjab would be at liberty to move an appropriate application for recalling of this order.
12. Pending application(s), if any, shall also stand(s) disposed off.

03.08.2022
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No