

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

CRM-M-8093-2022
Date of Decision:-**14.09.2022**

RAJNI BALA

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-.-

Present:- Mr. Satnam Singh Gill, 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 the petitioner and non-applicants Rani Kaur, Dilbagh Singh & Jagsir Singh and then police apprehended all four of them while they were travelling in a car and 400 grams of Heroin was recovered from the possession of non-applicant/Rani

Kaur. Thereafter another 10 grams of Heroin was recovered from possession of non-applicant Kali Kaur.

The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. That as per the prosecution version, the petitioner was travelling in a car along with Rani Kaur, Dilbagh Singh and Jagsir Singh and the police apprehended the car and on checking of the purse of Rani Kaur 400 grams of Heroin was recovered. The counsel for the petitioner submits that the petitioner was having no knowledge about the alleged contraband which was kept concealed by Rani Kaur in her purse and regarding which only Rani Kaur was having knowledge. The counsel for the petitioner further submits that the petitioner is not related to Rani Kaur in any manner and they belong to two different places. The counsel for the petitioner further submits that the petitioner is in custody for the last more than 9 months. The counsel for the petitioner further submits that the challan has been presented, but it will take time for the trial to conclude. The counsel for the petitioner further submits that the petitioner is a young lady aged about 20/22 years of age and is having 2 years old daughter, who is also presently living with the petitioner in the jail premises. So prayer is made for grant of regular bail to the petitioner.

Status report by way of affidavit of Mr. Satbir Singh, Deputy Superintendent of Police, Barnala filed on behalf of the State in compliance of order dated 8.8.2022 passed by this Court, is taken on record.

The present petition is contested by the State counsel, who submits that in the present case 400 grams of Heroin was recovered from the car in which the petitioner was travelling. The State counsel while referring

to the aforesaid status report contends that 400 grams of Heroin was recovered from the plastic polythene which was recovered from the hands of Rani Kaur, who was also travelling in the aforesaid car. The State counsel further submits that the present petitioner was well aware about the said plastic polythene as the same was visible to the petitioner who was travelling in the same car with Rani Kaur. The State counsel further submits that the aforesaid recovery of 400 grams of Heroin comes under commercial quantity and as such provisions of Section 37 NDPS Act are applicable to the present case. The State counsel further submits that the police has presented the challan, but the trial is yet to commence and as such no ground is made out to grant benefit of bail to the petitioner at this stage.

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

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 the petitioner and non-applicant Dilbagh Singh and Jagsir Singh on 28.11.2021. Today the police record was produced by ASI Nirmal Singh and the copy of the recovery memo dated 28.11.2021 with regard to recovery of aforesaid 400 grams of Heroin is taken on record. From the perusal of the said recovery memo, it appears that 400 grams of Heroin was recovered from the purse, which was possessed by co-accused Rani Kaur. In view of the above, it appears that now the prosecution is trying to improve its case against the present petitioner by saying that Rani Kaur was carrying one Plastic Polythene containing aforesaid Heroin, in her hand as has been stated in the status report which has been filed today in the Court by way of

affidavit of Mr. Satbir Singh, Deputy Superintendent of Police, Barnala. The contents of the same are contrary to the recovery memo dated 28.11.2021, which is not bearing the signatures or thumb impression of the petitioner.

As has been submitted by the State counsel, the petitioner is having no acquaintance with Rani Kaur and they are not belonging to same place and no call detail record was collected by the police to connect the petitioner with the aforesaid recovery of 400 grams of Heroin from the purse carried by co-accused Rani Kaur.

As per the custody certificate the petitioner is in custody in the present case for the last more than 9 months and 16 days. Admittedly the challan has been presented but trial is yet to commence. The fact that the petitioner is aged about 22 years of age and is having 2 years old daughter, who is also confined in the jail premises along with the petitioner has not been refuted by the State counsel in any manner. Admittedly, no contraband was recovered from the petitioner on her personal search.

It is a moot point as to whether the petitioner having no acquaintance with Rani Kaur, was having knowledge about the contents of the purse possessed by said Rani Kaur.

The State counsel is unable to show that if released on bail, the petitioner is likely to commit any such offence in future.

In the light of the above, this Court is of the view that parameters of bail available under Section 37 of NDPS Act appear to have been satisfied in the present petition.

Consequently, 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.

However, in future if the petitioner commits offence of similar nature, then the prosecution will be at liberty to seek cancellation of the bail of the petitioner in the present case.

(KARAMJIT SINGH)
JUDGE

14.09.2022
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No