

204

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.11803 of 2021 (O&M)

Date of decision: 02.04.2022

Paramjit Kaur @ Pammy

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. K.S. Sidhu, 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 to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.202 dated 17.12.2020, for offence punishable under Sections 22 and 29 of the NDPS Act, registered at Police Station City Samana, District Patiala.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered on the basis of a secret information, on 17.12.2020, total 5000 intoxicant tablets of CLOVIDOL-100 SR make Tramadol Hydrochloride were recovered from the possession of the petitioner. It is further submitted that the petitioner is in custody for the last about 01 yer, 03 months and 11 days and she is not involved in any other case.

Counsel for the petitioner has further argued that though charges have been framed, however out of 12 PWs, no PW has been

examined so far and therefore, it will take long time in conclusion of the trial.

On 09.12.2021, the following order was passed:-

“Though this petition has remained pending for the last about nine months, with learned counsel for the petitioner having argued on July 30, 2021 that Section 50 of the NDPS Act was not complied with, inasmuch as the vehicle from which the recovery is shown to have been made, was searched without any consent memo recorded, today on a query being put to him as to where in Section 50 of the NDPS Act it is stipulated that the said provision is applicable to even the search of a vehicle (as opposed to a personal search of an accused), he submits that he does not wish to press that issue any longer; but has produced in court today photocopies of various documents, including an arrest memo, a search memo and a recovery memo (all in vernacular), from which he submits that though the search memo and the arrest memo are shown to be thumb marked by the petitioner, the recovery memo is not thumb marked by her and as such in fact the recovery has been planted upon her, though it is shown to be of a large quantity of 5000 intoxicant tablets (along with her co-accused, with her not being the driver of the car from the recovery is stated to have been made).

He further submits that the fact that the recovery was not actually made as is depicted in the FIR, would also be seen from the fact that despite the information allegedly received at 3.15 p.m., even the information sent via a ruqa was at 3.45 p.m., for which there would be no reason.

As regards that part, learned State counsel submits that it being a detailed ruqa, it would take at least 15-20 minutes to write it out or even to type it, and consequently that delay cannot be fatal to the case.

As regards the recovery memo not having been signed by the petitioner/thumb marked, learned State counsel submit that with both, the arrest memo and the search memo, having been duly thumb marked by her, she may have simply refused to sign the recovery memo which would naturally not be the fault of the arresting official, who also could have inadvertently not taken the thumb impression of the petitioner on that specific memo.

Learned State counsel next submits that the recovery being rather a large one it cannot have been planted upon the petitioner.

Learned counsel for the petitioner has also relied upon a judgment passed by a co-ordinate Bench of this court in “Sandeep Kumar vs State of Punjab”, 2019(4) R.C.R.(Criminal) 741, to submit that where a recovery memo was not signed by the accused, the accused would be entitled to be released on bail, with that judgment in fact having been passed in an appeal filed against the conviction of the accused in that case (and with that appeal having been allowed).

However, it is also seen in this case that it has been stated by the DSP in his reply, that even the car which is stated to have been recovered from the petitioner (from which intoxicant tablets were alleged to have been recovered), was found to be stolen.

However, it is also seen in this case that it has been stated by the DSP in his reply, that even the car which is stated to have been recovered from the petitioner (from which intoxicant tablets were alleged to have been recovered), was found to be stolen.

Adjourned to 19.01.2022.”

Counsel for the State on the basis of the affidavit of the Deputy Superintendent of Police, Circle Samana, District Patiala, has argued that the vehicle in dispute is registered in the name of Ramesh Kumari wife of Rajinder Kumar, who has joined the investigation and stated that she has not sold the said vehicle to any person and it is an Alto Car. It is further stated that in the statement of Sanjeev Kumar, it has come that he has sold the Alto Card to one Mohit Kumar through a car dealer Sandeep. Thereafter, the same was sold to Puneet Kumar and Puneet Kumar sold it to Jasbir Singh. The aforesaid sale was done only on the basis of the affidavits, which were collected by the Investigating Officer.

It is also submitted that the recovered car was bearing the

fake registration number of the aforesaid Alto car and therefore, the offence under Section 489 IPC was enhanced.

Counsel for the State has further submitted that the petitioner is the wife of Jasbir Singh, who has purchased the said car and Jasbir Singh is the co-accused in the present case and some other cases under the NDPS Act, are also registered against the husband of the petitioner.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 01 years 03 months and 11 days; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

02.04.2022
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No