

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

223

CRM-M-12653-2022
Decided on : 30.03.2022

Karamjeet Kaur @ Mata

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Ms. Manjot Kaur, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 677 dated 23.12.2021 under Sections 21, 27A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Kurukshetra University, District Kurukshetra.

Learned counsel for the petitioner has submitted that in the present case, no recovery has been effected from the petitioner and the petitioner is sought to be implicated solely on the basis of the disclosure statement made by the co-accused Raju from whom the recovery of 51 gms. of heroin/smack has been effected and the said quantity is much lower than the stipulated commercial quantity which starts from 250 gms.

Learned counsel for the petitioner has further relied upon

the judgment passed by the Hon'ble Supreme Court in **Tofan Singh Vs. State of Tamil Nadu**, reported as **2021(1) RCR (Criminal) 1**, an order passed by Coordinate Bench of this Court dated 17.06.2020 in CRM-M-12051-2020 titled "**Mewa Singh Vs. State of Punjab**", and an order of another Coordinate Bench dated 16.07.2021 passed in CRM-M-12997-2020 titled as "**Daljit Singh Vs. State of Haryana**" to contend that in such like cases if a person has only been proceeded against on the basis of disclosure statement of co-accused and no recovery has been effected from the petitioner, then he should be granted the concession of regular bail. It is further submitted that the said co-accused Raju, in his disclosure statement, in addition to the present petitioner, had also named Kawaljeet Kaur, who has already been granted the concession of regular bail. It is further submitted that even Raju, from whom the recovery had been effected has also been granted the concession of regular bail. It is further contended that the petitioner has been in custody since 25.12.2021 and there are as many as 14 witnesses out of whom, none has been examined as yet and thus, the trial is likely to take time. It is submitted that all the witnesses are official witnesses and thus, the question of the petitioner influencing or threatening them does not arise. It is further submitted that the petitioner is suffering with Tinea Corporis (ringworm/rashes caused by fungal infection) and also has insomnia.

Learned State counsel, on the other hand, has opposed the present application for regular bail and has submitted that the petitioner

is involved in five other cases also. It is further submitted that the said Kawaljeet Kaur, who has been granted the concession of regular bail, was not involved in any other case. The other facts as mentioned by learned counsel for the petitioner are not disputed by learned State counsel.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is on bail in all the said five cases. He has further submitted that as per settled law, it is the facts of the present case which are required to be considered for the purpose of deciding the present bail application. For the said proposition, learned counsel for the petitioner has relied upon judgment dated 16.01.2012 passed by the Hon'ble Supreme Court in Criminal Appeal No.159 of 2012 titled as ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and others*** 2012 (2) SCC 382 reference has been made to the relevant portion of paragraph 6 which is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard learned counsel for the parties and has perused the paperbook.

It is not in dispute that the petitioner has not been named in

the FIR and no recovery had been effected from her. The recovery has been effected from one Raju and the said recovery is of 51 gms. of heroin/smack which is much lower than the stipulated commercial quantity which starts from 250 gms. The petitioner has been implicated solely on the basis of the disclosure statement of Raju. As per the law laid down in the cases of *Tofan Singh*, *Mewa Singh* and *Daljit Singh (supra)*, the disclosure statement made before the police is inadmissible in evidence. There is no other incriminating evidence against the petitioner. The co-accused Raju, from whom the recovery has been effected, has already been granted the concession of regular bail. Even Kawaljeet Kaur, who was the other person named in the disclosure statement of said Raju, has also been granted the concession of regular bail. All the witnesses are police officials and thus, the question of the petitioner influencing or threatening the said witnesses does not arise. The petitioner has been in custody since 25.12.2021 and there are as many as 15 witnesses, out of whom none has been examined, thus, the trial is likely to take time.

Keeping in view the abovesaid facts and circumstances, and also in view of the law laid down in all the abovesaid judgments, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to her not being required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

March 30th, 2022
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No