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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-14573-2022  
Date of Decision: 19.07.2022

Harnam Kaur @ Bibi

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present: Mr. J.K. Singla, Advocate, for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

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**JASGURPREET SINGH PURI, J. (Oral)**

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No. 44 dated 02.07.2021, under Sections 22, 29 of NDPS Act, registered at Police Station Sadar Budhlada, District Mansa.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 02.03.2022 and earlier she was granted interim bail in view of the fact that the FSL report was not received. On the receipt of the FSL report, she has already surrendered. He further submitted that the petitioner is a lady of the age of 75 years and she has been falsely implicated in the present case on the basis of disclosure statement made by the co-accused and the alleged recovery from the petitioner was 285 grams of Tramadol Hydrochloride which is marginally higher than

the commercial quantity. He further submitted that the petitioner is not involved in any other case pertaining to the NDPS Act and although she was earlier involved in two more cases under the IPC. He further submitted that it is a settled law that the disclosure statement of a co-accused is not admissible in evidence and considering the fact that the petitioner is an old lady of the age of 75 years, she may be considered for the grant of regular bail. He further submitted that while making alleged recovery, if any, from petitioner, no procedure under Section 50 of NDPS Act was followed.

On the other hand, Mr. Randhir Singh Thind, learned Deputy Advocate General, Punjab has submitted that it is correct that the petitioner was earlier granted interim bail and thereafter she has surrendered after the receipt of the FSL report and now she is in custody from 02.03.2022. He further submitted that the subject matter of the confiscation of Tramadol was in the category of commercial quantity. He further submitted that it is correct that the petitioner is not involved in any other case under the NDPS Act but she was involved in two more cases under the IPC.

I have heard the learned counsel for the parties.

The petitioner is a lady of the age 75 years and she is in custody from 02.03.2022. Earlier she was granted interim bail and as per the learned counsel for the parties, she had surrendered in time. As per the prosecution, the name of the petitioner was nominated on the basis of the disclosure statement made by the co-accused and thereafter there was an alleged recovery of 285 grams of Tramadol Hydrochloride in the form of tablets from the petitioner. On a query being raised to the learned State

counsel as to whether there is any other incriminating material available with the prosecution except the disclosure statement of the co-accused, he submitted that in pursuance of the disclosure statement there was a recovery of 285 grams of Tramadol Hydrochloride from the petitioner. However, on the other hand, the learned counsel for the petitioner argued that the petitioner being a lady of the age 75 years has been falsely implicated in the present case. This Court is of the view that the alleged recovery from the petitioner is marginally higher than the commercial quantity and it is yet to be ascertained at the time of trial as to whether the present case was planted upon the petitioner or not. Furthermore, while apprehending co-accused Balkar Singh procedure under Section 50 of NDPS Act is depicted in the FIR and the police proceedings but the learned State counsel has not been able to show any document that when recovery was made from petitioner, then procedure under Section 50 of NDPS Act was followed or not. The fact that the petitioner is a lady of the age of 75 years would therefore be a good ground for grant of bail to the petitioner in view of the aforesaid facts and circumstances. The bar contained under Section 37 of NDPS Act would therefore not apply in the present case in view of aforesaid facts and circumstances. Furthermore it is not the case of the State that in case the petitioner is released on bail, then she may repeat the offence or influence any witness or may tamper evidence or may flee from justice. Therefore, considering the aforesaid facts and circumstances and the fact that the petitioner is a lady of the age of 75 years, this Court deems it fit and proper to grant bail to the petitioner.

Consequently, the present petition is allowed. The petitioner

shall be released on regular bail subject to furnishing bail bonds/surety to the

satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

**19.07.2022**

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**(JASGURPREET SINGH PURI)**  
**JUDGE**

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|--------------------|---|--------|
| Whether speaking   | : | Yes/No |
| Whether reportable | : | Yes/No |