

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

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**CRM-M-27113-2022
Decided on : 15.09.2022**

Lalita Devi

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Vikas Bishnoi, Advocate for
Mr. Rishu Mahajan, Advocate
for the petitioner(s).

Mr. JS Arora, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner – Lalita Devi, who has been booked for having committed the offences punishable under Section 20 of the NDPS Act, 1985 (Section 27/29 of NDPS Act, added later on), in FIR No. 04, dated 17.01.2022, registered at Police Station GRP Jalandhar, Jalandhar.

At the outset, learned State counsel has filed the custody certificate dated 14.09.2022 of the petitioner, in Court today. Same is taken on record, subject to all just exceptions.

A copy thereof has been handed over to the learned opposite counsel.

Learned counsel for the petitioner submits that as per FIR, the main accused was Sheetal Sahni s/o Khusheshwar Sahni, from whom

recovery of 25 kg. of ganja was effected. He further submits that as per prosecution story on the basis of the disclosure statement of Sheetal Sahni, another accused Baijnath was arrested in the case and from whom recovery of 4.80 kg. of ganja was effected. Thereafter, on the disclosure statement made by accused Baijnath, name of the petitioner surfaced.

Learned counsel for the petitioner further submits that it is a totally false case and the ganja has been planted by the police with some ulterior motive. He further submits that initially the petitioner made attempts to seek anticipatory bail, but after getting unsuccessful therein, had surrendered on 22.05.2022 before the Court below. He further submits that thereupon recovery of of 1.480 kg. of ganja, has been shown to be effected on the disclosure statement of the petitioner, from the bushes in the open area. Therefore, story itself seems to be highly improbable and the chances of conviction of the petitioner in the present are very bleak. There are fairly arguable points during the course of the trial showing the innocence of the petitioner. He further submits that further incarceration of the petitioner is not worth in this case.

On the other hand, learned State counsel while opposing the submissions made by learned counsel for the petitioner submits that as per the custody certificate petitioner has undergone custody of 04 months 13 days, and there is an another matter under the NDPS Act against the petitioner, wherein, production warrants have been issued.

Learned State counsel further submits that this is the second case of similar nature in which the petitioner is involved. Therefore, it cannot be said that name of the petitioner has been falsely implicated in the instant case. Thus, she is not entitled for the concession of bail.

I have heard learned counsel for the parties and perused the relevant material on record.

Considering the fact that petitioner is a woman aged about 37 years and recovery in the present case though was shown to be effected at the instance of petitioner, but it is also admitted fact that the same was not effected from the petitioner, but from the bushes in the open area. The sanctity of such disclosure statement would be another question before the trial Court, whether such recovery is valid one or not ?

Otherwise also, recovery at the instance of the petitioner shown to be of 1.480 kg. of ganja, which is non-commercial quantity. On query, learned State counsel submits that at the time of recovery of 1.480 kg. of ganja, no independent witness was joined.

Considering all the facts and circumstances, I find that there is some substance in the contentions raised by the counsel for the petitioner.

Accordingly, the present petition is allowed. Petitioner is ordered to be released on bail in this case, subject to her furnishing bail/surety bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

However, it is made clear that if petitioner is found to be directly involved in any other NDPS matter, then prosecution would be at liberty to seek cancellation of bail of the petitioner in the present case.

It is further made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an

expression on the merits of the case and the Trial Court shall decide the case on the basis of evidence available on record.

(SANJAY VASHISTH)
JUDGE

September 15, 2022

J.Ram

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