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

CRM-M-35894-2022

Date of decision : 21.09.2022

Nisha Rani and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Kamal Narula, Advocate for the petitioners.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioners in FIR No.112 dated 07.07.2022, under Sections 21/61/85 of the NDPS Act, (Sections 353, 332, 186, 224, 225, 148, 149 of the Indian Penal Code, 1860, were added later on), registered at Police Station City Jalalabad, District Fazilka.

Learned counsel for the petitioners has submitted that the petitioners are in custody since 08.07.2022 and the investigation is complete and the 'challan' has been presented and there are 20 prosecution witnesses, out of which, none have been examined as yet and since the charges have not been framed, thus, the conclusion of trial is likely to take time. It is further submitted that the petitioners are young ladies aged 24 years and 22 years respectively and they are not involved in any other case. It is contended that the petitioners were neither named in the FIR nor in the

secret information and as per the same, two accused persons had been named, i.e. Swaran Singh and Mohinder Kaur and no recovery has been effected from the present petitioners and the alleged recovery of 10 grams of heroin had been effected from the said co-accused Mohinder Kaur and the said recovery of 10 grams of heroin is far lesser than the stipulated commercial quantity, which starts from 250 grams. It is further contended that no specific overt act or injury has been attributed to the present petitioners.

On the other hand, learned State counsel has opposed the present petition for grant of regular bail to the petitioners and has submitted that the petitioners, along with other accused, had scuffled with the police, but the police had been able to arrest only Mohinder Kaur.

This court has heard learned counsel for the parties and has perused the paper book.

The petitioners are in custody since 08.07.2022 and the investigation is complete and the 'challan' has been presented and out of 20 prosecution witnesses, none have been examined as yet and the charges are yet to be framed, thus the conclusion of trial is likely to take time. The petitioners are young ladies of 24 years and 22 years respectively and are stated to be not involved in any other criminal case. The petitioners were not named in the FIR, nor in the secret information and as per the FIR, 2 accused persons i.e. Swaran Singh @ Shambu and Mohinder Kaur had been specifically named in the secret information. It is further submitted that no recovery has been effected from the present petitioners and the alleged recovery of 10 grams of heroin has been effected from the said Mohinder

Kaur and the said recovery of 10 grams of heroin is far lesser than the stipulated commercial quantity, which starts from 250 grams. It is the case of the petitioners that the police officials had come to the house of Mohinder Kaur in plain clothes, thus, a large number of people had gathered outside the house of said Mohinder Kaur thinking that some assailants had come to rob the said Mohinder Kaur.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioners are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to them not being required in any other case and also subject to the petitioners giving an undertaking to the trial Court that they would appear before the trial Court on each and every date unless their appearance is personally exempted by the Court.

However, it is made clear that in case, any act is done by the petitioners to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioners.

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 petition.

21.09.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**