

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

CRM-M-42793-2021

Date of Decision : **May 17, 2022**

BANTI KAUR @ GHOGA

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. J.S.Sandhu, Advocate
for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.70 dated 17.6.2021 under Sections 22, 25, 29 of NDPS Act, registered at Police Station Barnala, District Barnala, Punjab.

The learned counsel for the petitioner has submitted that the petitioner is a lady of the age of 35 years and is in custody for about 10 months. He submitted that it is a case where the petitioner has been falsely implicated in the present case and as per the FIR, two persons, namely, Amritpal Singh and Pardeep Kumar were involved in the present case and they succeeded to run away from the spot by leaving their Swift car by taking the benefit of darkness and thereafter there was a recovery of 50000 intoxicant tablets from the car. Thereafter one of the co-accused, namely, Amritpal Singh was arrested and from him there was a

recovery of Rs.1 lac of drug money and 50000 tablets of Celcidal-100SR and thereafter he made a disclosure statement and some other co-accused were also nominated from whom recovery was made. He further submitted that so far as the present petitioner is concerned, she was also nominated on the basis of a disclosure statement and as per the prosecution there was a recovery of 1830 loose intoxicant tablets. He submitted that the present case was planted upon the petitioner and the recovery shown to be made from the petitioner was only of some loose tablets whereas the recovery made from the other co-accused was having trade mark. He further submitted that infact earlier the petitioner was involved in one case under the Excise Act and it was only because of this reason that the name of the petitioner was nominated in the present case by falsely implicating her. He submitted that in view of the aforesaid facts and circumstances, the prayer of the petitioner is not hit by the bar contained under Section 37 of the NDPS Act.

On the other hand, the learned State counsel has submitted that it is correct that the petitioner is in custody for the last about 10 months and the petitioner is involved in one more case under the Excise Act. He submitted that in the present case an information was received by the police and two main co-accused, namely, Amritpal Singh and Pardeep Kumar fled away from the spot but left behind the car from where there was a recovery of 50000 intoxicant tablets and thereafter from Amritpal Singh there was a recovery of 50000 tablets of Celcidal-100SR. He submitted that it is correct that the petitioner was nominated on the basis of a disclosure statement of one of the co-accused and there

was a recovery of 1830 of loose tablets from her.

I have heard the learned counsels for the parties.

It is a case where the petitioner is a lady and is in custody from 25.7.2021 and her name was nominated purely on the basis of a disclosure statement of co-accused and as per the prosecution there was a recovery of 1830 loose tablets from her whereas the recovery which was made from the main accused was having a trade mark on it. On a query being put to the learned State counsel as to whether there is any other material available with the prosecution for connecting the petitioner with the present offence apart from the disclosure statement made by the co-accused, he was not able to provide any such sufficient material in this regard. The disclosure statement of a co-accused is not admissible in evidence *per se*. The pendency of one case against the petitioner under the Excise Act would not become a ground for denial of bail to the petitioner especially in view of the fact that the petitioner is a lady. Therefore, this Court is satisfied that there are prima facie reasons to believe that given the aforesaid facts and circumstances the petitioner is not guilty of the offence. 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 may abscond from justice. Therefore, both the ingredients for making a departure under the bar contained under Section 37 of the NDPS Act remain satisfied. Therefore, this Court is of the view that the petitioner is entitled for the grant of regular bail.

Consequently, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety

bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

May 17, 2022
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(JASGURPREET SINGH PURI)
JUDGE

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