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

CRM-M-41608-2022

Date of decision : 16.09.2022

Kailash

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr. Tarun Aggarwal, 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 petitioner in FIR No. 112 dated 07.07.2022, under Sections 21 of the NDPS Act, 1985 (Sections 61/85 of NDPS Act, 1985 and 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 petitioner has submitted that the petitioner is in custody since 20.07.2022 and the investigation is complete and the 'challan' has been presented and there are 20 witnesses, none of whom have been examined and since the charges have not been framed, thus, the trial is likely to take time. It is submitted that the petitioner is a young lady of 20 years and she is not

involved in any other case. It is further submitted that the petitioner was 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 petitioner 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 submitted that no specific overt act or injury has been attributed to the present petitioner.

Learned State counsel on the other hand has opposed the present petitioner for regular bail and has submitted that the petitioner, 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 petitioner is in custody since 20.07.2022 and the investigation is complete and the 'challan' has been presented and there are 20 witnesses, none of whom have been examined and the charges are yet to be framed, thus the trial is likely to take time. The petitioner is a young lady of 20 years and is stated to be not involved in any other criminal case. The petitioner was not named in the FIR, nor in the secret information and as per the FIR 2 accused persons, only 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 petitioner 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 petitioner 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 petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case and also subject to the petitioner giving an undertaking to the trial Court that he would appear before the trial Court on each and every date unless his appearance is personally exempted by the Court.

However, it is made clear that in case, any act is done by the petitioner 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 petitioner.

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.

16.09.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**