

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

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CRM-M-42299-2022

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

JASVIR KAUR

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Arun Gupta, AAG, Punjab.

PANKAJ JAIN. 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.0166 dated 9.7.2022(wrongly mentioned date as 10.7.2022 in order passed by the 1d. Sessions Court Annexed as Annexure P-2), under Sections 15, 21, 22, 22(b) of NDPS, registered at Police Station City Sri Muktsar Sahib, Distt. Sri Muktsar Sahib.

As per the custody certificate produced by the learned State counsel, the petitioner has undergone actual custody of 3 months and five days.

Counsel for the petitioner contends that the contraband recovered from the petitioner is 180 tablets of Alprazolam of 0.5 mg. Counsel submits that the petitioner was actually nominated on the basis of the disclosure statement made by co-accused, namely, Baba Katar Singh. He submits that in view of the fact that the initial involvement of

the petitioner is on the basis of the disclosure statement of the co-accused which will be hit by law laid down in *Tofan Singh Vs. State of Tamil Nadu, 2021 (1) RCR (CrL) 1* and the fact that the recovery made from the petitioner pursuant to her arrest is also less than commercial, the rigor contained under Section 37 of NDPS Act will not be applicable. He further relied upon order passed by this Court in CRM-M-40996-2022 dated 13.9.2022 and that passed in CRM-M-39961-2022 whereby co-accused, namely, Manjeet Kaur and Kukhjeet Karu @ Mandeep Kaur have been granted the concession of regular bail.

The learned State counsel opposes the prayer made by the learned counsel for the petitioner. However, he is not in a position to dispute the aforesaid factual assertions made by the learned counsel for the petitioner based on record. He also does not dispute the fact that the recovery alleged to have been made from the petitioner is less than the commercial quantity.

I have heard learned counsel for the parties and have gone through the records of the case.

The petitioner has undergone actual custody of more than 3 months. As per the custody certificate, there is no other case pending against the petitioner. The alleged recovery is less than the commercial quantity and, thus, the rigor as contained under Section 37 NDPS Act will not be attracted.

Without expressing any opinion on the merits of the case and keeping in view the incarceration already suffered by the petitioner, 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 the Ld. Trial Court/Duty Magistrate concerned.

Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

October 17, 2022
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(PANKAJ JAIN)
JUDGE

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