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

CRM-M-45311-2022

Date of Decision: 06.12.2022

Paramjeet Kaur

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Tarun Seth, Advocate for
Mr. Vikas Bishnoi Godara, Advocate,
for the petitioner.

Mr. Naveen S. Panwar, DAG, Haryana.

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 bearing FIR No.187 dated 07.07.2019, under Sections 21(B) & 27-A of the N.D.P.S. Act, 1985, registered at Police Station City Ratia, District Fatehabad.

It has been submitted by learned counsel for the petitioner that the petitioner is a lady of the age of 53 years and it is a case where the allegation was with regard to the confiscation of 7.10 grams of *Heroin*, which does not fall in the category of commercial quantity. He further submitted that the petitioner was earlier granted bail by the learned Special Court and thereafter, she had been continuously appearing before the

learned trial Court without any fail but on 22.04.2022, she could not appear because of the accident of her son, namely, Gursewak Singh and it was beyond the control of the petitioner, who is a lady to have appeared/surrendered before the trial Court and on the very first date itself i.e. 22.04.2022, her bail bonds and surety bonds were cancelled and non-bailable warrants of arrest had been issued against her. He also submitted that however the petitioner was thereafter arrested on 05.08.2022. He further submitted that the reason for her absence was the accident of her son and she could not even contact the counsel since the situation was beyond her control and the absence was *bona fide*. He also submitted that now the total custody of the present petitioner is four months and the quantity involved in the present case is only 7.10 grams of *Heroin*. The mere fact that earlier the petitioner jumped the bail because of the reason beyond her control should not become a ground for denial of the regular bail.

On the other hand, Mr. Naveen S. Panwar, learned DAG, Haryana, has submitted that it is correct that the petitioner has faced incarceration for four months and the alleged recovery from the petitioner was 7.10 grams of *Heroin*, which does not fall in the category of the commercial quantity, therefore, the bar contained under Section 37 of the NDPS Act will not apply in the present case. He has however submitted that since earlier the petitioner had jumped the bail, therefore, she is not entitled for the grant of regular bail.

I have heard the learned counsel for the parties.

As per the learned counsel for the petitioner, the petitioner remained absent for a period of 3 months after the cancellation of the bail

and the reason for her absence was the accident of her son and she is a lady and therefore, the situation was beyond her control. The quantity involved in the present case does not fall in the commercial quantity under the NDPS Act and it is only 7.10 grams of *Heroin*. Therefore, this Court is of the view that the mere fact that the petitioner, who is a lady, had remained absent from the Court and jumped the bail and thereafter, she was arrested which was beyond her control, would not become a ground for denial of regular bail to the petitioner due to peculiar facts and circumstances.

Therefore, considering the aforesaid factual background, this Court deems fit and proper to grant bail to the petitioner. Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

06.12.2022

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |