

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

**CRM-M-51331-2021(O&M)
Date of Decision:. 14.10.2022**

Guddi Kaur

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. F.S.Virk, Advocate for the petitioner.

Mr.H.S.Sullar, Senior DAG, Punjab..

TEJINDER SINGH DHINDSA, J. (ORAL)

This is the third petition preferred under Section 439 Cr.P.C. seeking regular bail to the petitioner pending trial in FIR No. 330 dated 30.06.2020, under Section 22 of the NDPS Act, 1985, registered at Police Station City, Barnala, District Barnala.

Counsel for the parties have been heard.

It is the prosecution version that on 30.06.2020 S.I. Gulab Singh had received a secret information that the petitioner is habitual of selling intoxicant tablets and is roaming in the area of Grain Market, Barnala. On the basis of such secret information, petitioner was apprehended and an alleged recovery of 93 strips Clovidol i.e. total 930 tablets were recovered.

Date of arrest of the petitioner is 30.06.2020 itself.

Learned State counsel has vehemently opposed the prayer for grant of bail on the ground that as per Chemical Examiner's report the salt of

Tramadol was found and the total quantity being 382 grams. The threshold of such salt as regards commercial quantity is 250 grams and as such the bar contemplated under section 37 of the NDPS Act would apply.

Be that as it may, on a pervious date of hearing contention raised by counsel for the petitioner as regards non-compliance of Section 42(2) of the NDPS Act, 1985 had been noticed and State counsel had been directed to complete instructions.

Placed on record is a short affidavit dated 09.09.2022 of the Deputy Superintendent of Police, Sub Division Barnala and in para 3 thereof it has been averred as follows:-

“ Therefore, S.I. Gulab Singh reduced the said secret information into writing and by sending a ruqa to the Police Station got registered the present FIR No.330 dated 30.06.2020 u/s 22/61/85 ND & PS Act, P.S. City, Barnala against above Guddi Kaur wife of Ravi Kumar, resident of backside Rambagh Barnala. S.I. Gulab Singh prepared report u/s 42(2) NDPS Act at the spot and sent the same to the then SHO, SI Baljit Singh. He also requested the S.H.O. to depute some competent Investigating Officer for conducting further investigation. Whereupon, A.S.I. Jarnail Singh, P.S., City Barnala along with Police party reached near S.I. Gulab Singh at the spot, who apprised the facts of the case to A.S.I. Jarnail Singh and left the spot.”

Prima facie this Court finds that a debatable issue arises in the present case as regards compliance of Section 42(2) of the NDPS Act.

Further more, in the present case it has gone uncontroverted that

the final investigation report was filed on 16.12.2020 and the charges were framed on 15.03.2021. Trial thereafter has not made much progress inasmuch as out of 11 prosecution witnesses cited only 05 have been examined till date. Trial, as such, would take time to conclude.

Petitioner has already faced incarceration since 30.06.2020.

Petitioner is not stated to be involved in any other case under the NDPS Act.

In the totality of circumstances and without opining on the merits of the case, prayer is allowed.

Petitioner be enlarged on bail subject to her furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

14.10.2022
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No