

CRM-M-47091-2022

Date of Decision: November 11, 2022

RAJVIR KAUR @ RAJVEER KAUR @ RAJU ...PETITIONER

Versus

STATE OF PUNJAB ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. P.S. Sekhon, Advocate for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.57 dated 12.07.2022 under Section 21 of NDPS Act, 1985, registered at Police Station P.S. Sherpur District Sangrur.

Learned counsel for the petitioner contends that as per the allegations in the FIR the petitioner had thrown away one transparent polythene bag on seeing the police party. The alleged recovery effected from the same is 40 grams heroin which learned counsel submits is non-commercial quantity. He submits that she has been in custody since 12.07.2022 and that there is non-compliance of Sections 42 and 50 of the NDPS Act, 1985. He further submits that the petitioner has three minor children to look after. Charges have been framed but none of the witnesses have been examined out of the 11 cited by the prosecution.

Contrarily, learned State counsel has opposed the bail on the ground that it is case of chance recovery and the provisions the non-compliance of Sections 42 & 50 of the NDPS Act, 1985 which have been alleged by the petitioner are not applicable, she was apprehended at the spot and there are two

more cases against her. He however, is unable to controvert the fact that the recovery effected from the person of the petitioner is non-commercial, the petitioner is in custody for 3 months and 29 days and that none of the prosecution witnesses have yet been examined.

In rebuttal, the learned counsel for the petitioner submits that in the other two cases, wherein she is stated to be involved, are also relating to recovery of non-commercial quantity of contraband.

Heard.

In view of the facts and circumstances of the case, in particular that the petitioner, who is a lady having three minor children, has been in custody for the last 3 months and 29 days; the alleged recovery in the present case from her is non-commercial; none of the witnesses have been examined as yet; the trial is likely to take a considerable time, further detention of the petitioner behind bars would not serve any useful purpose, thus, the present petition for grant of regular bail to the petitioner deserves to be allowed.

Resultantly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to her furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to her not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.

6. The petitioner shall not in any manner misuse his liberty.
7. Any infraction shall entail in withdrawal of the benefit granted by this Court.
8. The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
9. The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in that regard.

It is made clear that in case of breach of any of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, this Court makes it clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

November 11,2022
Monika

(AMAN CHAUDHARY)
JUDGE

Whether reasoned/speaking:	Yes/No
Whether reportable:	Yes/No