

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

**CRM-M-49518-2022
Date of decision : 09.12.2022**

Suneha @ Saneha

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Jaiteshwar Singh, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.162 dated 07.07.2022, registered for offence punishable under Section 22(c) of NDPS Act (in short 'the Act') at Police Station City Muktsar Sahib, District Sri Muktsar Sahib.

2. As per the case of the prosecution, it has been alleged that the petitioner alongwith her co-accused Babli was apprehended on the basis of suspicion. 500 tablets of Clobedol-100 SR were recovered from the conscious possession of co-accused Babli and 450 tablets of Clobedol-100 SR were recovered from the conscious possession of the present petitioner.

3. Counsel for the petitioner submits that in view of the fact that the positive case of the prosecution is that separate recoveries were effected and separate memos were prepared, the contraband recovered from both the accused cannot be considered as a joint recovery to the peril of the petitioner. He further contends that since as per the case of prosecution, it was a separate recovery from the petitioner, the contraband alleged to have

been recovered from her conscious possession being less than the commercial quantity would not attract rigors of Section 37 of the Act. He further contends that the challan stands presented and all the witnesses cited are official, there cannot be any apprehension w.r.t. the tampering of the evidence and thus continuation of incarceration of the petitioner would be of no use.

4. Per contra, counsel for the State does not dispute that the recovery memo prepared on the spot does support the *prima facie* view that the recoveries have to be considered separately. He admits the fact that the investigation already stands completed and challan stands presented.

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

7. Keeping in view that the recovery alleged qua the petitioner is intermediate and thus Section 37 of the Act will not be applicable and the fact that the investigation already stands completed and challan stands presented, the present petition is allowed. Petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.

- (iv) The petitioner shall not commit any offence similar to the one alleged in the present case.
- (v) The petitioner shall deposit his passport, if any with the trial Court.
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cellphone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

5. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

6. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

09.12.2022

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Whether speaking/reasoned : Yes

Whether Reportable : No