

228

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

CRM-M No.54338 of 2021 (O&M)

Date of decision: 15.03.2022

Veerpal Kaur

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. P.K.S. Phoolka, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.133 dated 10.10.2021, for offence punishable under Section 22(c)/61/85 of the NDPS Act, registered at Police Station Nehianwala, District Bathinda.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of SI Rajpal, it is stated that while on a petrol duty, a clean shave person along with a lady were seen searching something in one white colour plastic bag and on seeing the police party, they became perplexed and tried to slip away. On suspicion, they were apprehended and disclosed their names as Lovepreet @ Lovely and Veerpal Kaur. Thereafter, a notice was given to them, giving option to be searched before a Gazetted Officer or a Magistrate and both of them reposed confidence in the same Investigating Officer and allowed him to search the white colour plastic

bag and thereafter, 1500 intoxicant tablets of TRAMADOL were recovered. It is further submitted that the petitioner is a lady and is a first offender and she is in custody for the last 05 months and 01 day and as per the medical status report, submitted by the Medical officer, Central Jail, Bathinda, she is not maintaining good health and she is at advanced stage of pregnancy and the estimated date of delivery is 29.06.2022. The report of the Medical Officer, Central Jail, Bathinda, reads as under:-

“As per record the above said person is having pregnancy diagnosed from Civil Hospital, Bathinda her last menstrual period is 22.09.2021 and estimated date of delivery is 29.06.2022. She is severely anaemic hemoglobin of 7.5 gm/dl with occasional lower abdomen pain with history of curdy white discharge as per examination by Doctors of Civil Hospital Bathinda. In Jail she has been given full diet including fruits. She was regularly referred to Civil Hospital Bathinda for treatment and follow up. Treatment record attached.

Keeping in view her pregnancy, is in advanced stage and Hemoglobin is 7.5 gm/dl if any complication regarding pregnancy happens in future in Jail it is difficult to handle because of lack of treatment infrastructure in Jail Hospital for pregnant females and more over there is no Gynecologist Posted in Jail Hospital to manage the complication.

*Sd/- Medical Officer
Central Jail, Bathinda”*

Counsel for the State on the basis of the Custody Certificate as well as in view of the report of the Medical Officer, Central Jail, Bathinda, has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that it will be matter of trial whether in the absence of calling any other Gazetted Officer or a Magistrate, the Investigating Officer himself can conduct the search of the accused and whether proper procedure has been followed or not and also in view of the fact that the petitioner is a first offender; she is at advanced stage of pregnancy; she is not maintaining good health and the estimated date of deliver is 29.06.2022; she is in custody for the last 05 months and 01 day; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

15.03.2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No