

211

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

**CRM-M No.50451 of 2022  
Date of Decision: 01.12.2022**

**Sneha @ Bandhna**

**.....Petitioner**

**Vs**

**State of Punjab**

**.....Respondent**

**CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present:Mr. Rana Harjasdeep Singh, Advocate  
for the petitioner.

Mr. Sanjeev Soni, Addl., A.G., Punjab.

\*\*\*\*\*

**RAJ MOHAN SINGH, J.(Oral)**

The petitioner seeks grant of regular bail in her second attempt under Section 439 Cr.P.C in case bearing FIR No.104 dated 12.10.2019 registered under Sections 21, 29 of the NDPS Act at Police Station STF Phase IV, District SAS Nagar.

The FIR was registered on the basis of secret information to the effect that Kamal Kumar, Gurbinder Singh @ Vicky and the petitioner were coming in a car belonging to the petitioner for doing illicit business of sale of heroin. The naka was installed by the police and the car was stopped. From the

place of shifting the gear of the car, a polythene envelope was found tied with knot and the same was recovered. On weighment, 1 kg 530 grams of heroin was recovered. 250 empty transparent locked pouches were also recovered.

Learned counsel for the petitioner submits that the petitioner was implicated solely on the basis of RC of the vehicle, which is in the name of the petitioner. In fact, the petitioner used to rent out this vehicle for the purposes of pilgrimage and the petitioner has nothing to do with the recovery of the contraband. Co-accused Kamal Kumar was driving the vehicle and Gurbinder Singh @ Vicky was sitting on the front seat. The petitioner was sitting on the rear seat.

Learned counsel further submits that the petitioner has no antecedent behaviour of criminal activity in the past. The petitioner is in custody since 14.10.2019 and has undergone a period of 3 years, 1 month and 18 days of custody as on 30.11.2022. Out of total 15 prosecution witnesses, only 1 witness has been examined completely. Recovery memo itself carries FIR number and in view of ratio laid down in **Ajay Malik Vs. State of UT, 2009 (3) RCR (Criminal) 649**, the same would be debatable issue as to the non-compliance of the proper procedure. Recover memo does not find signature of the accused/petitioner.

The Hon'ble Apex Court vide order dated 22.08.2022 passed in **Special Leave to Appeal (Crl.) No.5530 of 2022** titled **Mohammad Salman Hanif Shaikh Vs. The State of Gujarat** and order dated 04.08.2022 passed in **Special Leave to Appeal (Crl.) No.4173 of 2022** titled **Shariful Islam @ Sarif Vs. The State of West Bengal** has observed that long custody of the accused can be considered for grant of regular bail even in case of commercial quantity, leaving the question (whether recovery of contraband is of commercial quantity or otherwise) as the same is to be considered by the trial Court at the relevant stage on the basis of material to be adduced by the prosecution. The aforesaid view has also been relied in **CRM-M No.34236 of 2022** titled **Buta Singh @ Butta Singh Vs. State of Haryana** decided on 09.08.2022 and **CRM-M No.33355 of 2021** titled **Mintu Vs. State of Haryana** decided on 23.08.2022.

Taking into consideration the custody of the petitioner since 14.10.2019, stage of the trial and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to her furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

|                           |                   |
|---------------------------|-------------------|
| 01.12.2022                | (RAJ MOHAN SINGH) |
| <i>Prince</i>             | JUDGE             |
| Whether speaking/reasoned | Yes/No            |
| Whether reportable        | Yes/No            |