

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-52567-2022 (O & M)****Date of decision: 23.11.2022**

Ramesh Kumari @ Babbe

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Manoj R. Sharma, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.185 dated 12.10.2022 under Sections 21(b), 29 NDPS Act registered at Police Station Dinanagar, District Gurdaspur.

2. The brief facts of the case are that while police party was on a patrolling duty, then from the side of Dida Sasian, one lady was seen coming on foot who on seeing the police party got perplexed and tried to turn back but was apprehended. On an enquiry, she disclosed her name as Ramesh Kumari alias Baboo. On her search, a recovery of 05 grams of heroin came to be effected from her person.

3. The learned counsel for the petitioner contends that the recovery from the petitioner is of a small quantity of heroin. Since the petitioner was in custody since 12.10.2022, she deserves the concession of bail as the bar under Section 37 of the NDPS Act would not be applicable to

Court of Himachal Pradesh at Shimla in the case of '*Reena Kumari versus State of H.P. (Criminal Misc. Petition (Main) No.2090 of 2022 dated 27.09.2022*)'.

4. The learned counsel for the State, on the other hand, submits that the petitioner is a habitual offender with as many as 05 other FIRs under the NDPS Act as is set-out in the petition as also in the impugned order. He contends that in view of the bar under Section 37 of the NDPS Act as also the provisions of Section 439 Cr.P.C., the petitioner is not entitled to the grant of bail.

5. I have heard the learned counsel for the parties.

6. In the present case, the petitioner is apparently a habitual offender with as many as 05 other FIRs registered against her. The conduct of the petitioner certainly does not entitle her to the grant of bail. The conditions as imposed under Section 37 NDPS Act are in addition to those imposed under Section 439 Cr.P.C. Merely, because the recovery is of non-commercial quantity of contraband does not *ipso facto* entitle the accused to the grant of bail as the conduct of the petitioner is required to be seen even for the purposes of granting bail under Section 439 Cr.P.C. It may also be pointed out that the judgment relied upon by the learned counsel for the petitioner in Reena Kumari (supra) is not applicable to the present case as the Court granted bail to the petitioner therein on account of the fact that the recovery was from the house of the petitioner therein and the contraband could possibly have been of her husband who was already in custody in another case under the NDPS Act. Secondly, the challan had already been submitted in the said case and the petitioner was in custody for 10 months.

7. In the present case, the petitioner herself is an accused in 05 other cases under the NDPS Act. Her prior conduct does not entitle her to

the grant of regular bail. Even otherwise, the recovery in the present case is from her person. Further, she has been in custody only since the last about one and a half month.

8. In view of the aforementioned facts, the petitioner is not entitled to the grant of bail. The present petition is, therefore, dismissed.

(JASJIT SINGH BEDI)
JUDGE

November 23, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No