

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-54585-2022

Date of Decision:-01.12.2022

Nirmala.

.....**Petitioner.**

Versus

State of Haryana.

.....**Respondents.**

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. K.L. Saini, Advocate for the Petitioner.

Mr. Neeraj Poswal, Assistant Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.478 dated 25.06.2021 under Sections 21 & 27 A of the NDPS Act registered at Police Station Sadar Hisar, District Hisar, Haryana.

The brief facts of the case are that police party was on patrolling duty when a secret information was received that Rekha wife of Dharambir was bringing Chitta from Hansi and would get down at Bhanu Chowk and go towards Ambedkar Basi Hisar. She was wearing a striped Grey Salwar Kameez and if a raid was conducted she could be apprehended with contraband.

The FIR was registered and the woman was apprehended with

the help of lady police official. She disclosed her name as Rekha. After complying with the various provisions of search and seizure a recovery of 505 grams of Heroin was effected from her. Based on her disclosure statement the petitioner was arrayed as an accused in the present case with the allegations that she had supplied the said Heroin to the arrested accused Rekha.

The petitioner was arrested but no recovery has been effected from her.

The Counsel for the petitioner contends that the petitioner is not named in FIR and has been implicated on the disclosure statement of the main accused Rekha as per which the petitioner supplied the contraband to her. He contends that the said statement is inadmissible in evidence in view of the judgments in **Tofan Singh Vs. State of Tamil Nadu, 2020 AIR (Supreme Court) 5592, Rakesh Kumar Singla Vs. Union of India 2021(1) RCR (Criminal) 704, State by (NCB) Bengaluru Vs. Pallulabid Ahmad Arimutta &Anr. 2022(1) RCR (Criminal) 762, Surinder Kumar Khanna Vs. Intelligence Officer, Director of Revenue Intelligence, 2018(3) RCR (Criminal) 954 and Sanjeev Chandra Aggarwal & Anr. Versus Union of India 2021(4) RCR (Criminal) 590.** He contends that the main accused in the present case namely Rekha has been granted the concession of bail by this Court vide order dated 13.09.2022 in CRM-M-4783-2022 titled as Rekha Vs. State of Haryana (Annexure P-1).

Even otherwise, since the petitioner was in custody since 3.7.2022 and none of the 29 prosecution witnesses have been examined so far therefore, the Trial of the present case was not likely to be concluded any time soon. The petitioner is an accused in one other case under the

NDPS Act bearing FIR No.645 dated 30.09.2018 under Section 20 of NDPS Act, P.S. City Rohtak wherein she has been granted the concession of bail vide order dated 17.10.2018. In the said case recovery is of 1-1/2 Kg of Ganja Pati. He thus contends that the petitioner deserve the concession of bail.

Kavita @ Kali co-accused of the petitioner had also sought the concession of bail but the said petition was withdrawn on account of the fact that there were 06 other cases under the NDPS Act against her. The case of the petitioner was on a better footing and thus she was entitled to the grant of bail.

The Counsel for the State on the other hand contends that though the co-accused Rekha has been granted the concession of bail , the bail application of Kavita stands declined and the case of the petitioner is similar to that of Kavita. He however, fairly concedes that Kavita was involved in 06 other cases under the NDPS Act whereas the petitioner is involved in one other case but has been granted bail in that case.

I have heard learned Counsel for the parties at length.

Admittedly, in the present case no recovery whatsoever has been effected from the Petitioner. The veracity of the statements of the co-accused against the petitioner would be a matter of adjudication during trial. In one other FIR against the petitioner she had been granted the concession of regular bail as the recovery therein was of non commercial quantity of contraband. The copy of the order is placed on record as Mark-X. The petitioner is undoubtedly in custody since 03.07.2022 and none of 29 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded any time soon and as such the

further incarceration of the petitioner is not required.

Thus, the present petition is allowed and the petitioner is ordered to be released on bail subject to the satisfaction of the CJM/Duty Magistrate, concerned.

The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing that he is not involved in any other crime other than the present case.

In addition, the petitioner (or any one on his behalf) shall prepare a FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

December 01, 2022
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>