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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-299-2023 (O&M)****DATE OF DECISION: 14.07.2023****Geeta****...Petitioner****Versus****State of Haryana****...Respondent****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. Ishnoor Singh, Advocate for
Mr. Vikram Singh, Advocate,
For the petitioner.

Ms. SvaneelJaswal, Addl. AG, Haryana
assisted by Sub-Inspector Satbir.

ARUN MONGA, J. (ORAL)**CRM-27225-2023**

This is an application for preponing the main case which is fixed
for 21.08.2023.

For the reasons stated in application, same is allowed and main
case is preponed and taken on Board today itself. Earlier dated 21.08.2023 is
cancelled.

CRM-27228-2023

This is an application for grant of interim bail to petitioner, being
mother of minor children, who are facing difficulty in performing basic duties
or in the alternate, grant of regular bail as her husband is suffering from
Tuberculosis.

Heard.

Taking into consideration the peculiar circumstances, instead of
rendering piecemeal decision, main case is taken up for hearing today itself.

Instant application stands disposed of, accordingly.

MAIN CASE

Petitioner, aged 30 years mother of two minors, seeks bail in case bearing FIR No.468 dated 14.12.2021, registered under Sections 20, 27-A, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as “NDPS Act”), at Police Station Sadar Gohana, District Sonapat

2. Per the First Information Report (FIR), on 14.12.2021, a police party led by Sub-Inspector Sumender Singh along with other police officials were conducting a routine search for drug peddlers in the area under their jurisdiction. Acting on an information, allegedly, 01 kg 390 grams of Charas, wrapped in a blue color polythene, was recovered from one iron box (dibba) placed at the residence of petitioner. Petitioner and her husband were both arrested same day. A formal FIR was registered, and separate notice under Section 50 of NDPS Act was also served upon them.

3. Learned counsel for petitioner contends that petitioner has been falsely implicated as the alleged recovery is a planted one. Same was not recovered from her conscious possession. No independent witness was joined. The alleged contraband was recovered on 14.12.2021 from an iron box which was lying in the house of petitioner whereas, parcel was sent to Forensic Science Laboratory on 08.01.2022 i.e., after a delay of more than 23 days. There is every possibility of tampering with the parcel.

3.1. Learned counsel further contends that challan was filed and till date out of 21 witnesses, prosecution has not examined even a single witness. Petitioner is in custody since day one of FIR. Conclusion of trial will take long time. No useful purpose would be served by keeping petitioner in further preventive custody. Her husband has been let out on bail by a co-ordinate Bench of this Court vide order dated 21.02.2023 passed in CRM-M-28969-2022. She is entitled to be released on bail on parity.

3.2 Learned counsel would further argue that husband of the petitioner is suffering from Tuberculosis and his health is deteriorating day by day. He has been deprived of proper care in the absence of petitioner. She is under constant fear that lack of care may result in untimely demise of her

husband. She has two minor children who are also being deprived of parenthood as husband of petitioner is also not able to look after the children, being in precarious medical condition. That apart, in the absence of their parents, children are not able to go to school and are deprived of regular meals of the day. There is no one to cook food for them. Children are finding it very difficult to pursue their daily pursuits in the absence of petitioner.

4. On the other hand, learned State counsel opposes the bail petition on the ground that petitioner has committed a serious offence. She would further urge that challan was filed and sufficient evidence was collected by the investigating agency. Learned Court below finding strong *prima facie* case against petitioner, framed charges against her and co-accused. She further contends that contraband recovered from petitioner was of commercial quantity and she is not entitled to the concession of bail by virtue of Section 37 of the NDPS Act.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. In the present case, petitioner is stated to be not involved in any other case. She is being kept in preventive custody merely on an unfounded suspicion that if she is let out, she may either tamper with evidence and/ or influence witnesses. There is no documentary evidence and it is more in the nature of FSL report *qua* contraband already filed in the trial Court to which accused has no access. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. As regards witnesses, they are all official and therefore, they are unlikely to be influenced, even if there is any such apprehension by the prosecution.

7. Challan has been filed and trial has commenced. Petitioner is not required for custodial interrogation. Out of total 21 witnesses, none has been examined so far. Trial is likely to take long time. Whereas, petitioner has already been languishing in jail for the past more than one year and seven

months in preventive custody, being behind bars since 14.12.2021. Case of petitioner is at par with that her husband/co-accused Sombir.

8. Considering the overall scenario and without commenting on the merits of case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioners in further preventive custody.

9. Accordingly, petitioner is ordered to be released on bail on her furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where her case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

10. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of her bail in the instant case.

11. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.

12. Pending application(s), if any, shall also stand disposed of.

JULY 14, 2023
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No