

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

218

CRM-M-2418-2023 (O&M)
Date of decision: 01.02.2023

KUNTA DEVI

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Pankaj Bali, Advocate
for the petitioner.

Ms. Aditi Girdhar, AAG Haryana.

AMAN CHAUDHARY. J.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.252 dated 09.05.2022, under Sections 20(b)(ii)(c), 27A, 29-61-85 of the NDPS Act registered at Police Station City Thanesar, District Kurukshetra.

Learned counsel contends that the petitioner, who is 74 years old lady is in custody since 06.08.2022. No recovery has been effected from the petitioner. The allegations against her are of having given Rs.21,000/- for purchase of 3 kg of *ganja*. He submits that challan was presented on 27.10.2022, however, charges are yet to be framed and in all there are 17 witnesses. Though the petitioner is involved in 03 other cases, however, she is on bail in all those cases. In this regard he relies on the judgment dated 16.01.2012 passed by Hon'ble The Supreme Court of India in Criminal Appeal No.159 of 2012 titled as ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and others, 2012(2) SCC 382.***

Learned State counsel opposes the bail on the ground that 3 more cases are registered against the petitioner, however, she is unable to controvert the submissions made by learned counsel for the petitioner.

Heard.

Hon'ble The Supreme Court of India in the case of **Maulana Mohd.**

Amir Rashadi (*Supra*) had observed as under:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

In view of the facts and circumstances of the case, in particular that the petitioner, who is 74 years old lady, is in custody since 06.08.2022; no recovery has been effected from her; she is on bail in other FIRs; though challan was presented on 27.10.2022, however, charges are yet to be framed; in all there are 17 witnesses; the trial is likely to take a considerable time, her further detention behind bars would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to her furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to her not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The petitioner shall not commit an offence similar to the offence of

which, she is an accused, or for commission of which she is suspected of.

5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.

6. The petitioner shall not in any manner misuse his liberty.

7. The petitioner shall furnish her address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.

8. The petitioner shall deposit her passport, if any, with the Trial Court forthwith and in case, she does not have the passport, she shall furnish a specific affidavit in this regard.

It is made abundantly clear that in case there is any breach of the aforesaid conditions and in case the petitioner commits similar offence in future, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, this Court makes it clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

February 01, 2023

M.Kamra/S.Sharma(syr)

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No