

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(207)

CRM-M-6325 of 2022
DATE OF DECISION:-14.02.2023

Inderjeet Kaur @ Shindi

...Petitioner

vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Balbir Kumar Saini, Advocate, for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab

HARKESH MANUJA, J.

By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973, petitioner is seeking grant of regular bail pending trial in FIR No.109 dated 02.07.2021 under Sections 22 of the NDPS Act, 1985 registered at Police Station Nihal Singh Wala, District Moga (Annexure P-1).

Learned counsel for the petitioner submits that in the present case, Investigation has already been concluded and *challan* stands filed way back on 23.11.2021 but even till date out of 12 prosecution witnesses, none has been examined so far. Charges were framed on 15.12.2021. Learned counsel for the petitioner further submits that from a perusal of the *challan* one can make out that there is blatant non compliance of Section 42 of the NDPS Act. He also submits that though at the time of effecting alleged recovery, the police officials were in a private vehicle as described in the *challan* itself, however, no details of the said vehicle such as, chassis number, type, name of driver etc. have been disclosed/mentioned in the *challan* which runs

contrary to the guidelines dated 27.04.2015 issued by the office of Director General of Police, Punjab, Chandigarh. Learned counsel for the petitioner also submits that it would be highly unbelievable that a person engaged in the business of drug smuggling will carry the contraband in white transparent polythene bag as described in the FIR/*challan*. In view thereof, learned counsel for the petitioner prays for grant of concession of regular bail.

On the other hand, prayer made hereinabove has been strongly opposed at the instance of learned State counsel who submits that recovery effected in the present case is of commercial quantity.

I have heard learned counsel for the parties and gone through the paper book. I find substance in the submission made on behalf of petitioner.

In the facts of the present case, petitioner has already remained behind the bars for almost 1 year 2 months and 11 days. Investigation has been concluded, *challan* stands filed and charges framed. None of the prosecution witnesses out of 12, have been examined so far and conclusion of the trial is likely to take long time, further, there is no other case of similar nature pending against the petitioner. The issue of non-compliance of Section 42 NDPS Act being debatable coupled with the other issue raised at the instance of the petitioner as regards non-compliance of instructions dated 27.04.2015 issued by the office of Director General of Police, Punjab, Chandigarh, besides, considering the long incarceration of the petitioner and the points of law raised at his instance, petitioner deserves grant of concession of regular bail.

Without commenting anything on the merits, lest it may prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to

the satisfaction of the concerned learned trial Court/Duty Magistrate.

However, nothing expressed hereinabove shall be construed as an expression on the merits of the case.

14.02.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No