

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(206)

CRM No. M-7905 of 2023
Date of Decision : 20.04.2023

Soma @ Billi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

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

Harsimran Singh Sethi J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in FIR No. 178, dated 29.08.2021, registered under Sections 21C & 29 of the NDPS Act, at Police Station Dinanagar, District Gurdaspur.

Learned counsel for the petitioner submits that the allegation in the present case is that 255 grams of Heroin was recovered from the petitioner and the same was weighed along with the carry bag. Learned counsel for the petitioner further submits that whether the quantity of the narcotic substance alleged to have been recovered from the petitioner is commercial or not, will depend upon the ultimate findings, which will come as, according to the petitioner, the intoxicant alleged to have been recovered were weighed along with the carry bag. Learned counsel submits that even otherwise, the quantity recovered is 255 grams, which is marginally above

the commercial quantity and especially that the petitioner has already undergone incarceration since 29.08.2021 and the trial is not likely to conclude in near future, the petitioner may kindly be extended the concession of regular bail.

Notice of motion.

Mr. Gurvinder Singh, learned Assistant Advocate General, Punjab, who is present in Court, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned State counsel submits that there are also other cases registered against the petitioner though, in those cases, the petitioner is already on bail.

Learned counsel for the petitioner submits that in those cases, the alleged recovery is of 1.5 grams and 20 grams respectively, which is marginal, hence, the petitioner may kindly be extended the concession of regular bail.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The allegation that commercial quantity recovered from the petitioner of the Heroin will be determined at the end of the trial keeping in view the evidence, which will come on record. As of now, the allegation is that the contraband alleged to have been recovered from the possession of the petitioner weighed 255 grams and in the FIR, it was mentioned that the same was in a carry bag. Whether the contraband was weighed along with the carry bag or not, will be proved upon the final outcome of the trial keeping in view the evidence, which will be brought on record. As out of

the total 11 witnesses cited, only 03 have been examined so far, the trial is likely to take some time before it concludes and the petitioner, who is a lady and is 51 years of age, no useful purpose will be served keeping the petitioner behind the bars during the entire trial, especially, when learned counsel for the petitioner has undertaken before this Court that the petitioner will not influence the trial in any manner and will maintain good conduct, if she is granted bail. In case of default of the undertaking, the State will be at liberty to approach this Court for passing appropriate orders.

The petitioner is directed to be released on regular bail in this case subject to the satisfaction of the trial Court/Duty Magistrate concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

April 20, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No