

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

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CRM-M-10961-2023 (O&M)**Date of decision: 20.07.2023**

Harjit Kaur

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. A.S. Brar, Advocate for the petitioner

Mr. H.S. Sullar, Sr. DAG Punjab

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.180 dated 12.12.2022, registered under Sections 21 and 22 of the NDPS Act (Section 29 NDPS Act added later on) at Police Station Kot Ise Khan, District Moga.

2. Learned counsel contends that the petitioner is in custody for 7 months and 8 days. Her name surfaced based on a disclosure statement of co-accused Bohar Singh, who though is her husband, from whom the alleged recovery effected is of 10 grams of heroin and 190 tablets of Etizolam. Reliance is placed on the judgment passed by Hon'ble The Supreme Court in the case of **Tofan Singh vs. State of Tamil Nadu**, 2021 (1) RCR (CrI.) 1. They both have been falsely implicated in the case, she in particular on the ground of having had an exchange of hot words with the police officials when her husband was arrested. In the challan, no person from Ferozpur has been shown as an accused, as was got stated from her husband in his disclosure statement that he used to take the contraband from the petitioner, who in turn procured it from someone in Ferozpur. No recovery was effected from her. She has no criminal antecedents.

Even her husband being in custody, there is no one in the family to look after their teenage children that includes a daughter. Charges have been framed on 20.04.2023, however, none out of 20 witnesses have been examined.

3. The custody certificate dated 19.07.2023, filed by learned State counsel is taken on record. As per the same, the petitioner is behind bars for 7 months and 8 days.

4. Learned State counsel opposes the bail on the ground that commercial quantity of contraband has been recovered from her husband. He is however unable to controvert the submissions regarding the stage of the case and petitioner being not involved in any other case.

5. Heard.

6. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for 7 months and 8 days; her name has surfaced based on disclosure statement and no recovery has been effected from her; is not involved in any other case; though charges stand framed on 20.04.2023, however, none out of 20 witnesses have yet been examined; the trial is likely to take considerable time and her further incarceration would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

7. 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:-

- (i). The petitioner will not tamper with the evidence during the trial.
- (ii). The petitioner will not pressurize/ intimidate the prosecution

witnesses.

- (iii). The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv). 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.
- (v). 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.
- (vi). The petitioner shall not in any manner misuse her liberty.
- (vii). 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.
- (viii).The petitioner shall not leave the country without prior permission of the trial Court.
- (ix). The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

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

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

(AMAN CHAUDHARY)
JUDGE

20.07.2023
S.Sharma(syr)

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