

218 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-13755-2023
Date of Decision:23.03.2023

Manjeet Kaur

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Gurpal Singh Sandhu, Advocate for the petitioner.

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

AMAN CHAUDHARY J.(Oral)

This is the second petition filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.58 dated 29.07.2022 under Section 22 (b)/61/85 of the NDPS Act, registered at Police Station Lakhewali District Sri Muktsar Sahib, Punjab.

Learned counsel contends that the recovery effected from the petitioner is 68 grams of tramadol tablets, which falls under the category of non-commercial quantity as per the Schedule of the NDPS Act and the same has not been effected from the person of the petitioner but from a black colour polythene bag found on the ground. Petitioner is a lady and a mother of a minor child of 02 years and her old parents are also suffering from various health problems. No independent witness had been joined at the time of the alleged recovery. Two

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more cases under the NDPS Act are pending against the petitioner; one was registered on 02.10.2017 bearing FIR No.102/2017, wherein the alleged recovery was 2 grams of heroin and she was sentenced to RI for one month, which the petitioner has already undergone. The other FIR was registered on 29.11.2018, wherein the alleged recovery was 5 grams of heroin, which is pending trial and the petitioner is on bail in that case. Petitioner is in custody for the last 7 months and 24 days. Charges were framed on 17.11.2022 and out of 26 witnesses, none has been examined. Co-accused Sukhdev Singh @ Ghogha has already been granted regular bail by the learned trial Court vide order dated 20.09.2022.

Learned State counsel opposes the bail on the ground that recovery has been effected from the bag thrown on the road by the petitioner and co-accused. There are two more cases in which the petitioner has been found involved. He is however, unable to controvert the submissions with regard to the custody, stage of trial, recovery is non-commercial and that co-accused has been granted bail.

Heard.

In view of the facts and circumstances of the case, in particular that the petitioner is in custody for the last 07 months and 24 days; co-accused has been enlarged on regular bail; charges were framed on 17.11.2022, however, none of out of 26 witnesses has been examined; the alleged recovery is non-commercial therefore, rigors of Section 37 of NDPS Act are not attracted in the present case; 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.

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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 her 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, 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

23.03.2023
Shweta/S.Sharma

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