

**214 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-12113-2023

Date of Decision: 16.03.2023

Gagan Kumari @ Jasveer

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.10 dated 24.01.2023, registered under Sections 25/54/59 of the Arms Act, 1959 (Sections 15(C), 25, 27 and 29 of NDPS Act, 1985 added lateron), at Police Station Sardulgarh, District Mansa.

As per facts of the case, the Police party while patrolling spotted a Swift Car bearing No.HR51-BC-9273, which was driven by a Hindu gentleman. On suspicion, they gave signal to stop the car and thereafter, the Police enquired from the inmates of the car and all the inmates of the car disclosed their names to be Satnam Singh alias Balwan, Harwinder Singh alias Happy, Lachhman Singh, Jasveer Kaur and Gagan Kumari alias Jasveer. On search of the car, the Police recovered one pistol, out of which five live cartridges were recovered from the magazine of the pistol. On their asking, the inmates of the car failed to show any licence of the weapon and thus, the FIR was registered under Section 25 of the Arms Act. During the investigation of the FIR, the co-accused Lachhman Singh disclosed about keeping poppy husk in his home and in pursuance to the

same, the Police raided the house of Lachhman Singh and recovered 51 Kgs Poppy husk. Thus, offence under Sections 15(C) of the NDPS Act was also added. All the accused were arrested on the spot. The petitioner approached the Court of learned Judge, Special Court, Mansa for grant of bail, who, after hearing the parties, declined the same vide order dated 22.02.2023. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

It has been vehemently contended by learned counsel for the petitioner that the petitioner before this Court in fact is the victim in the case. He submits that the petitioner was engaged with one Vishal on 23.12.2022. He submits that co-accused Harwinder Singh forcibly kidnapped the petitioner two days prior to the registration of the FIR i.e. on 22.01.2023 and FIR No.04 dated 22.01.2023 under Sections 365, 506, 34 IPC and Sections 25 and 27 of the Arms Act, was registered at Police Station Smalsar, District Moga against Harwinder Singh @ Happy son of Jassa Singh and Happy son of Babby Singh. He submits that on the date of the occurrence i.e. on 24.01.2023, the petitioner was already kidnapped by co-accused Harwinder Singh and out of fear, she disclosed her name to the Police as Gagan Kumari @ Jasveer wife of Harwinder Singh. He submits that the alleged recovery of the weapon and cartridges and that of poppy husk weighing 51 Kgs is from the co-accused and the petitioner had no complicity whatsoever in the same. He submits that regarding the kidnapping of the petitioner, FIR was already registered and thus, her false implication by the Police is writ large. It is submitted that the petitioner was already engaged with one Vishal, which was not acceptable to co-accused Harwinder Singh and thus, she was kidnapped by him. He submits that the

petitioner has no criminal antecedents and thus, she deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has submitted that the petitioner was arrested with the co-accused on spot and there was a recovery of 51 kgs poppy husk on the disclosure statement of co-accused Lachhman Singh, which falls in the category of commercial quantity. However, on instructions he submits that the petitioner has no criminal antecedents as she is not involved in any other case except the present case. He submits that both the FIRs i.e. the present FIR and FIR No.04 pertaining to the kidnapping of the petitioner, are under investigation.

Heard.

Evidently, the petitioner is behind bars since 24.01.2023. Regarding the kidnapping of the petitioner by co-accused Harwinder Singh, there was FIR already registered two days prior to the present FIR. The weapon and the cartridges were recovered from the car i.e. from the co-accused. Thereafter, recovery of 51 Kgs poppy husk was also recovered on the disclosure statement of the co-accused from his home. Even otherwise recovered poppy husk is 51 Kgs, which is marginally above the commercial quantity. There is nothing on record to show that the petitioner has any criminal antecedents. There is no other evidence on record for drawing the satisfaction under Section 37 of NDPS Act for the complicity of the petitioner in the present case. The matter is under investigation and the veracity of the allegations would be evaluated by the learned trial Court on the basis of the evidence to be led by both the parties before it. However, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for

grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

16.03.2023

sharmila

Whether Speaking/Reasoned

Whether Reportable

:

:

Yes/No

Yes/No

(RAJESH BHARDWAJ)

JUDGE