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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 16885 of 2023

Date of Decision:- 12.12.2023

MANJIT KAUR ALIAS MANJEET KAUR

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. P.S. Sekhon, Advocate, for the petitioner.

Mr. Subhash Godara, Addl. AG, Punjab.

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SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in the following case :-

FIR No.	Dated	Sections	Police Station
0317	17.12.2022	15 of NDPS Act	Sadar Nabha District Patiala

2. In nutshell the case of the prosecution is that 4 kg of poppy husk was recovered from the possession of the petitioner when apprehended on 17.12.2022.
3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is in custody since 17.12.2022 in this case and from him

recovery of 4 kg of poppy husk was effected. He further submits that challan in the case has already been presented in Court and she is facing trial. He contends that learned Special Judge has rejected the bail application of the petitioner under the belief that FSL report suggested salt of Morphine, Codeine Thebaine, Papaerine and Narcotine in the sample whereas according to him as per FSL report Annexure R-1, only pods of poppy plant were found present in the parcel which does not fall within purview of commercial quantity.

4. The factual position as stated above is not disputed by the learned State counsel. He submits that the petitioner is involved in other cases, although on bail and prayed for dismissal of the bail application.

5. After considering the rival contentions and perusing the record, admittedly, the recovery effected from the possession of the petitioner as per FSL report (Annexure R-1) does not fall within the purview of the commercial quantity. After conclusion of the investigation, challan has already been presented in Court and the trial is going on. The petitioner is in custody since 17.12.2022 and criminal liability, if any, on the petitioner would be determined after completion of trial which will take sufficient long time and no useful purpose would be served by detaining the petitioner any longer in custody.

6. Consequently, without commenting on the merits of the case, it is observed that no purpose would be served by keeping petitioner behind bars. Therefore, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the

satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. It is further made clear that in case the petitioner is found involved in any case under NDPS Act, after her release on bail, it will be open for the prosecution to move an application for cancellation of her bail in accordance with law.

8. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

12.12.2023
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |