

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

234

CRM-M-19376-2023 (O&M)

Date of decision: 11.09.2023

Baljit Kaur @ Baljiti

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. D.S. Virk, Advocate for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.23 dated 02.03.2023, registered under Section 61(1) and 14 of Punjab Excise Act, 1914 at Police Station Khalchian, District Amritsar.

2. Learned counsel contends that the petitioner is a 65 years old lady, who has been in custody for 6 months. She is an acute diabetic patient and suffering from other old age ailments and is unable to walk and sit properly being overweight, medical record appended as Annexure P-4. She has been falsely implicated in the case. Challan was presented on 28.04.2023, however, charges have not been framed. In all there are 8 prosecution witnesses. Though, there are 3 more cases pending against her, however, she is on bail. In the other 3 cases, in 1 she has undergone the sentence, in the 2nd, she was sentenced to pay a fine of Rs.500/- and in the 3rd, her sentence has been suspended. Reliance is placed on the

judgment of Hon'ble The Supreme Court in **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382.

3. The custody certificate dated 10.09.2023 has been filed by learned State counsel. As per the same, the petitioner is behind bars for 6 months and 9 days.

4. Learned State counsel opposes the bail on the ground that the petitioner was apprehended at the spot and 300 litres of illicit liquor and Rs.25,150/- have been recovered from her. He is however unable to controvert the submissions with regard to stage of the case and the petitioner is on bail in other cases as well as sentence has been suspended.

5. Heard.

6. Hon'ble The Supreme Court in the case of **Maulana Mohd. Amir Rashadi** (supra) had held that, "As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc." Reiterating in **Prabhakar Tewari vs. State of UP and another**, (2020) 11 SCC 648, it was observed that, "The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail."

7. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 6 months and 9 days; on bail in other cases; suffering from ailments; challan stands presented on 28.04.2023, however, charges

are yet to be framed; in all there are 8 prosecution witnesses; the trial is likely to take a considerable time, thus her further incarceration would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

8. 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.

9. 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.

10. 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

September 11, 2023
M.Kamra

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