

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

220

CRM-M-23931-2023 (O&M)
Date of decision: 01.08.2023

USHA RANI ALIAS USHA

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Hitesh Verma, Advocate for the petitioner.

Mr. Hakam Singh, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

The petitioner has filed this third petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No. 94 dated 05.07.2022 registered under Sections 304 IPC and Section 21 of the NDPS Act, at Police Station Dhanaula, District Barnala. The first petition was dismissed on merits on 18.10.2022 and the second petition was dismissed as withdrawn on 27.04.2023.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that the petitioner has been in custody since 06.07.2022; that two material witnesses, namely, Vinod Kumar and Gurmeet Singh, while appearing before the learned trial Court as PW-1 and PW-2, respectively, did not support the prosecution version and have been declared hostile; that the FIR was lodged on the statement of Vinod

Kumar; that as per the FIR, Manpreet Kumar @ Gagandeep-son of the complainant, died due to overdose of the intoxicant and thus, the deceased was an drug addict; that the allegations against the petitioner and other co-accused are that the intoxicant was supplied by them to Manpreet Kumar @ Gagandeep (since deceased) and that the prosecution witnesses are yet to be examined.

Learned counsel for the petitioners further submits that in another NDPS case, the petitioner has been acquitted.

Learned State counsel, while vehemently opposing the prayer for bail, submits that the petitioner herself has suffered a statement under Section 27 of the Indian Evidence Act, 1872, that she had purchased 15 grams of intoxicant powder from an unknown person, out of which, she gave some powder to Manpreet Kumar @ Gagandeep, who died due to overdose. The petitioner was involved in another NDPS case, though, she stands acquitted in that case. However, he does not dispute the custody period of the petitioner and the fact that the eye-witness and the complainant have been declared hostile. The material witnesses are yet to be examined.

I have heard the learned counsel for the parties.

The petitioner has been in custody since 06.07.2022. The petitioner is a lady. The complaint and eye-witness have been declared hostile and even as per the FIR, Manpreet Kumar @ Gagandeep, died due to overdose of the intoxicant. In another case under the NDPS Act, the petitioner stands acquitted. The prosecution witnesses are yet to be examined. Therefore, the conclusion of the trial would take a long time.

Hence, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the petition is allowed and the petitioner is ordered to be released on regular bail on her furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

01.08.2023
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No