

CRM-M-31012-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-31012-2023 (O & M)
Date of decision: 13.09.2023

Kulwinder Kaur

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

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

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.49 dated 16.04.2023 under Sections 15, 29 of the NDPS Act, 1985 registered at Police Station Sadar Sangrur, District Sangrur.

2. The brief facts of the case are that while the police party was on patrolling duty, secret information was received that Kulwinder Kaur (petitioner) wife of Kashmir Singh @ Soni and Kashmir Singh son of Darbara Singh, residents of village Khurnaa had brought poppy husk from outside and were habitual of selling the same. They had kept the poppy husk in their fodder container (*khurli*) and if a raid was conducted, they could be arrested on the spot.

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Based on the information, the instant FIR came to be registered and on a raid being conducted, 55 plastic bags of poppy husk (55 kgs.) were recovered.

3. The learned counsel for the petitioner contends that in the instant case, the recovery was of 55 kgs. of poppy husk, which was marginally above the commercial quantity of 50 kgs. As the petitioner was a first-time offender, in custody since 16.04.2023 and none of the 19 prosecution witnesses had been examined so far, she was entitled to the concession of bail.

4. The learned counsel for the State, on the other hand, contends that commercial quantity of contraband had been recovered from the petitioner. Therefore, she was not entitled to the concession of bail in view of the bar contained under Section 37 of the NDPS Act. She, however, concedes that the petitioner was a first-time offender, in custody since 16.04.2023 and none of the 19 prosecution witnesses have been examined so far.

5. I have heard the learned counsel for the parties.

6. In the cases of '*Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022 decided on 04.04.2022, Pardeep Singh versus State of Punjab, CRM-M-46244-2022 decided on 19.01.2023, Hari Yadav @ Haiya versus State of Punjab (CRM-M-37645-2021)*' decided on 11.11.2022, '*Jang Kanwar Versus State of Punjab (CRM-M-53415-2021)*' decided on 19.01.2022, '*Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021,*

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Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021, decided on 27.01.2021, Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M-41039-2019, decided on 26.02.2020, Dalbara Singh Versus State of Punjab, CRM-M-47880-2022 decided on 16.01.2023', Vivek Watts versus State of Punjab, CRM-M-13791-2022 decided on 15.02.2023, Rajender Singh @ Raju versus State of Haryana, CRM-M-47528-2022 decided on 02.03.2023 and Sukhwinder alias Sukha versus State of Haryana, CRM-M-47859-2022 decided on 13.03.2023', where the recovery from the accused was marginally above the commercial quantity for the respective contraband in each case, the Court granted bail to the accused therein.

7. In the instant case, the recovery is of 55 kgs. of poppy husk which is marginally above the commercial quantity of 50 kgs. The petitioner is a first-time offender, in custody since 16.04.2023 and none of the 19 prosecution witnesses have been examined so far. In such a situation, the provisions of Section 37 of the NDPS Act can be relaxed to an extent and the case of the petitioner can be considered for the grant of bail.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-Kulwinder Kaur is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish

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an affidavit each time that she is not involved in any crime other than the case(s) mentioned in this order.

10. In addition, the petitioner (or someone on her behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

September 13, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No