

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33705-2023
DECIDED ON: 20.07.2023

JASVIR KAUR @ FAUJAN

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Krishan Singh Dadwal, Advocate with
Mr. Akhil Dadwal, Advocate
for the petitioner.

Mr. Karan Puggal, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail in FIR No.108, dated 06.06.2022, under Sections 21 & 22 of the NDPS Act, 1985, registered at Police Station Mahilpur, District Hoshiarpur (Annexure P-1).
2. Learned counsel for the petitioner contends that the petitioner has been fastened in the instant FIR, while she was in custody in another FIR bearing No. 95 dated 11.08.2022, registered under Sections 174-A, 212, 216 of IPC and Sections 21, 22 and 31 of NDPS Act at Police Station Chabbewal, District Hoshiarpur. In that FIR, petitioner was granted bail by the trial Court vide order dated 03.09.2022. The assertion is that before releasing the petitioner in that FIR, she has been arrayed as an accused in the present FIR and 60 grams heroin alongwith drug money are alleged to be recovered from the possession of the co-accused.
3. He vehemently contends that petitioner is suffering from various ailments including diabetes mellitus-II, Hypertension, bronchial asthma and heart

diseases. He asserts that in fact no recovery, from the possession of the petitioner, was effected, as she was already in custody and its a case of false implication, therefore, she deserves the concession of bail in this case as well.

4. On the other hand, Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to the custody certificate, petitioner is behind the bars for the last 10 months and 21 days. Custody certificate further depicts that petitioner is involved in various other cases meaning thereby he is a habitual offender, therefore, does not deserve the concession of bail. Though, he on instruction from ASI Satnam Singh could not controvert the fact that no recovery has been effected from the petitioner and she was nominated as an accused in the instant FIR, while she was in custody in the another FIR as has been stated hereinabove.

5. Be that as it may, looking into the totality of facts that prima facie its a case of false implication, wherein the petitioner was in custody, as has been candidly and fairly stated by learned State counsel. Custody period suffered by the petitioner in the instant FIR i.e., 10 months and 20 days, despite the fact that there was no recovery effected from her possession especially when the case is of false implication, as is evident from the history produced before this Court supported with the custody certificate that one or the other FIR is being got registered against the petitioner, while being in custody purely with the motive not to get her out of the custody.

6. As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as ***“Baljinder Singh alias Rock vs. State of Punjab”*** decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail,

it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial of the concession of bail.

11. In light of the above, the petitioner is directed to be released on regular bail on her furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

12. The present petition is, hereby, allowed.

13. However, it is made clear that any observation made hereinabove, shall not be construed as an expression of opinion on the merits of the case.

20.07.2023

Meenu

(SANDEEP MOUDGIL)
JUDGE

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