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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-38198-2022 (O&M)

Date of decision: July 17, 2023

Paramjeet Kaur

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Hoshiar Singh, Advocate for petitioner.

Ms. Guramrit Kaur, DAG Punjab.

ARUN MONGA, J. (ORAL)

Petitioner seeks bail in case bearing FIR No.140 dated 08.06.2022, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Guru Harsahai, District Ferozepur.

2. Per prosecution version, on the basis of secret information, petitioner was apprehended on 08.06.2022 and 190 intoxicating tablets of ETIRELAX (Etizolam) 0.5 mg. were recovered from her conscious possession. Petitioner is in custody since 08.06.2022.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. He submits that entire sample of the alleged contraband has to be sent for forensic examination, as against the same, only 20 tablets were sent, which resulted in wrong finding *qua* weight as well as content of contraband allegedly recovered from petitioner. He submits that no independent witness was joined. He also submits that there is no other case against the petitioner.

4. On the other hand, learned State counsel, on instructions from SI Gurdeep Kaur opposes the bail petition. She submits that petitioner has committed a serious offence. In case, petitioner is granted concession of bail, there are chances of her tampering with evidence and/ or influencing witnesses.

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5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.
6. Challan is stated to have been filed and even charges were framed and trial has commenced, petitioner is not required for custodial interrogation. Out of total 10 witnesses, none has been examined so far. Trial is likely to take long time. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been in jail for more than 1 year in preventive custody, being behind bars since 08.06.2022.
7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if she is let out, she may either tamper with evidence and/ or influence witnesses. There is no documentary evidence and it is more in the nature of FSL report *qua* contraband, already filed in the trial Court to which accused has no access. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. As regards witnesses, they are all official and therefore, they are unlikely to be influenced, even if there is any such apprehension by the prosecution.
8. Petitioner is stated to be 38-year old, mother of 3 children (2 daughters and 1 boy) who are being deprived of their natural care, protection and affection of their mother and proper upbringing as her husband has to go out for work. He is stated to be a daily wager. There is no other to look after them in her absence. There is no other case stated to have been against the petitioner.
9. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.
10. Accordingly, petitioner is ordered to be released on bail on her furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where her case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

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11. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of her bail in the instant case.
12. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 17, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No