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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-41420-2022(O&M)

Date of Decision:11.09.2023

Veer Kaur

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Jagjit Singh, Advocate, for the petitioner.

Mr. Ramdeep Partap Singh, Senior DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.119 dated 11.06.2022, under Section 22 of the NDPS Act, registered at Police Station Sultanpur Lodhi, District Kapurthala.

2. Learned counsel for the petitioner has submitted that the petitioner is a lady of the age of 49 years and has no criminal background and is not involved in any other case. He submitted that the petitioner has been falsely implicated only because of the political enmity in the village. He submitted that even as per the allegations the police party saw the petitioner and the petitioner allegedly had thrown away a bag on the road which she was carrying and in this way even as per the prosecution, the recovery was effected from the road and not from the conscious possession of the petitioner and it was a concocted story made by the police wherein the petitioner who is a lady having no criminal background has been falsely implicated. He submitted that

the petitioner has already faced incarceration for 1 year and 2 months and 1 out of 10 prosecution witnesses has already been examined and considering the aforesaid facts and circumstances wherein allegedly there was a recovery of 222 grams of Alprazolam which although falls in the category of commercial quantity but the bar contained under Section 37 of the NDPS Act will not apply to the petitioner because there was no recovery from the conscious possession of the petitioner.

3. On the other hand, Mr. Ramdeep Partap Singh, Senior DAG, Punjab has submitted that so far as the custody of the petitioner is concerned, the same is correct and the police party when had seen the petitioner, she had thrown away the bag and the recovery was effected from the road. He further submitted that the petitioner is not involved in any other case. He has however opposed the grant of regular bail to the petitioner on the ground that the recovered quantity from the petitioner falls in the category of commercial quantity and therefore, the prayer of the petitioner is hit by the bar contained under Section 37 of the NDPS Act.

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

5. It is a case where the petitioner is a lady of the age of 49 years and she has already faced incarceration for 1 year and 2 months. The petitioner is stated to be not involved in any other case as per the learned counsel for the parties. As per the FIR, there was no recovery from the possession of the petitioner but allegedly she had thrown away a plastic bag which contained 222 grams of Alprazolam powder which falls in the category of commercial quantity. After hearing the learned counsel for the parties, this Court is of the view that considering the custody of the petitioner which is stated to be 1 year and 2 months and also that the petitioner is a lady and is not involved in any other case and no recovery has been effected from the

conscious possession of the petitioner, the bar contained under Section 37 of the NDPS Act will not apply to the present petitioner. Consequently, considering the aforesaid totality and circumstances of the present case, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

6. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

11.09.2023

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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