

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39534-2023
DECIDED ON: 21.08.2023

MUKHTIAR KAUR ALIAS MUKHTIARO KAUR
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Himanshu Chhabra, Advocate for the petitioner.

Mr. Rajiv Verma, 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.31, dated 16.02.2023, under Section 20 of NDPS Act, 1985, registered at Police Station City Sunam, District Sangrur (Annexure P-1).
2. Before advertng to the contentions of the learned counsel for the petitioner, it needs to be mentioned here that instant petition is the 3rd application for bail after the second one was withdrawn vide order dated 31.05.2023 passed in CRM-M-26700-2023.
3. Learned counsel for the petitioner contends that now as per the FSL report dated 25.04.2023, only 25.60 grams of Resin Extract (Charas) has been found, which is non-commercial in nature, as the commercial quantity of (Charas) Sulfa is 1 kg apart from that no other ground has been raised on behalf of petitioner to make out any fresh submissions since 31.05.2023.
4. Learned State counsel has filed the custody certificate of the petitioner,

petition for regular bail having no new changed circumstances within a period of less than 3 months. He further submits that the petitioner is a habitual offender, who is involved in multiple cases of NDPS Act alongwith one case of 302 IPC in FIR No.72 dated 30.06.2014, registered at Police Station Sadar Sunam.

5. Be that as it may, firstly coming to the changed circumstances, as has been argued by learned counsel for the petitioner i.e., FSL report, the factum has not been disputed by learned State counsel, wherein the alleged recovered contraband is 25.60 grams instead of 2 Kgs of Charas (Sulfa), as has been narrated in the FIR, therefore, admittedly the case is non-commercial recovery of the contraband. As far as the pendency of other cases is concerned as has been stated by learned State counsel, no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time 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 the concession of bail.

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

7. The present petition is, hereby, allowed.

8. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

21.08.2023

Meenu

MEENU	Whether speaking/reasoned	Yes/No
2023.08.21	Whether reportable	Yes/No
I attest to the accuracy and integrity of this document		