

CRM-M-44262 of 2022

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-44262 of 2022

Date of decision: 16.02.2023

Promila Devi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. G.S. Bawa, Advocate,
for the petitioner.

Mr. Jashanpreet Singh, DAG, Punjab.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.181 dated 09.08.2022 under Section 304 IPC and Section 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station City Grudaspur, District Gurdaspur.

FIR in the present case has been registered on dated 09.08.2022 on the statement of Ravinder Kumar stating therein that on 08.08.2022 was birth day of his elder son Harash and for that purpose he was demanding Rs. 5000/- from his wife Arti in order to give party to his friends. His wife gave Rs. 500/- to his son Harash and told that the remaining amount will be given in the evening. Thereafter, at about 2.00/2.30 PM Jasbir Singh son of Mohabbat Singh and Jasbir Singh @

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Preet friends of his son, whose date was fixed in the court and on their appearance in the court, the learned Judge sent Jasbir Singh and Jasbir Singh @ Preet in the Central Jail, Gurdaspur. The Car of Jasbir Singh @ Preet bearing no. CH01-CH-9972 Verna which was driven by his friend Ishav Kumar and he took his son Harsh in the Car towards village Paniar, where Ishav Kumar purchased intoxicant substance Heroin from petitioner-Promila Devi who used to sell intoxicant substance. He took the dose of Heroin and also gave the dose of Heroin to his son Harash and due to over dose to his son Harash expired. Then Ishav Kumar was moving in the Car by keeping dead body of his son in the Car. Due to non-return of his son he and his wife were going towards grain market side in order to search their son, where near White Resort the above referred Car by the side of road was seen parked and near the Car Ishav Kumar was standing who on seeing them ran away from the spot. When they saw inside the Car, then his son Harash was lying on the back seat of the Car. They noticed that their son was unconscious who was admitted in the Civil Hospital Gurdaspur and where Doctor declared him dead. The death of his son has been caused due to providing over dose of Heroin by Ishav Kumar.

Pursuant to issuance of notice of motion, status report by way of affidavit of Dr. Riputapan Singh, Deputy Superintendent of Police, City, District Gurdaspur, has been filed on behalf of the respondent-State, which is taken on record. In para 10 of the status report it has been stated that the petitioner is involved in two other cases. The details of the same is as under: -

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Sr. No.	FIR	Status
1.	FIR No.36 dated 25.02.2021 under Section 21-A/61/85 of the NDPS Act, registered at Police Station Dinanagar	Convicted
2.	FIR No.91 dated 25.05.2022 under Section 21-A/61/85 of the NDPS Act, registered at Police Station Dinanagar	Under investigation

Learned counsel for the petitioner contends that the petitioner is innocent and has been falsely implicated in the present case. He contends that there is no evidence to connect the petitioner with the alleged offence. He further submits that no recovery has been effected from the petitioner. Petitioner is in custody since 09.08.2022 and trial is likely to take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner stating that co-accused Ishav Kumar has specifically named the petitioner that heroin was purchased from the petitioner for Rs.1,000/-. Moreover, petitioner is a habitual offender inasmuch as she is involved in two more cases under the NDPS Act.

I have heard learned counsel for the parties and perused the record.

There are grave allegations against the petitioner that she supplied heroin to co-accused Ishav Kumar, due to over dose of which life of 21 years old son of the complainant has been snuffed out. The allegations are serious in nature. In case the petitioner is released on

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bail, there is every possibility that she might tamper with the prosecution evidence.

Moreover, petitioner is a habitual offender. The discretionary power while granting bail is to be exercised in a judicious manner in case of a habitual offender. The factum of involvement of the petitioner in two other cases of similar nature, by no stretch of imagination, can be regarded as jejune.

Keeping in view the gravity of offence and seriousness of allegations; the fact that a young boy of 21 years of age has lost his life due to overdose of contraband given by Ishav Kumar purchased from the present petitioner and the fact that petitioner is a habitual of indulging in cases under the NDPS Act, she does not deserve the concession of regular bail. Hence, the petition is dismissed.

16.02.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No