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

**CRM-M-50295-2022
DECIDED ON: 18.04.2023**

RAJNI @ ASHOKA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The instant petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in FIR No.247 dated 27.08.2022 under Sections 21, 22, 29 of NDPS Act, 1985 registered at Police Station Batala, District Gurdaspur.

The contents of the FIR reproduced as under:-

“Statement of LR/ASI Davinder Singh 1964/BTL, P Simble, Batala, PS Civil Lines, M.No.9780004762. Stated that I am posted at PP Simble on general duty. Today I along with ASI Karnail Singh No.1842. ASI Samuel Masih No. 1987, PHÓ Balwinder Singh NO.2446, L/cT. Veer Kaur were going or patrolling and search of bad elements from PP Simble to Kahnuwan road, Sagarpura, etc. When the police party reached at the turn of Sagarpura, then one black coloured Splendor motorcycle without number was seen coming from Sagarpura side, which was being driven by a person with shorn hair while

a lady was sitting on the pillion. On seeing the police party, the motorcyclist got perplexed and tried to turn back the motorcycle and in the meantime, the motorcycle slipped and both of them fell down and the polythene bag held in the hand of the lady fell down. Myself ASI along with police party apprehended them on suspicion and inquired them name/ address. Upon this, the motorcyclist disclosed his name as Pawan Kumar @ Pamma son of Mohan Lal, resident of Gandhi Camp, while the lady disclosed her name as Rajni @ Ashoka wife of Raj Kumar, resident of Gandhi Camp, Batala. When Rajni @ Ashoka was asked about the contents of the polythene bag, then she replied that it contains intoxicating tablets. Then myself ASI informed head munshi at PS Civil Lines Batala that two persons sitting on the motorcycle have been apprehended on suspicion of intoxicating substance, Since I am local rank ASI, so please send regular ASI from police station, At this. you have arrived at the spot. Suspect Pawan Kumar @ Pamma and Raini @ Ashoka along with the polythene bag lying on the ground and Splendor motorcycle without number have been produced before you. Action be taken. Statement has been got recorded, is correCt Sd/- Davinder Singh ASI. Attested Sd/- Ashok Kumar ASI, Incharge PP Simble, Batala, dated 27.08.2022. Police proceedings: Today myself ASI was present at PP Simble that Head Munshi, PS Civil Lines Batala informed me on mobile that ASI Davinder Singh 1964 along with police party have apprehended two persons on a motorcycle at Sagarpura turn on suspicion of some intoxicating substance, so reach the spot for necessary action. At this, myself ASI along with HC Talwinder Singh 1665 reached Sagarpura turn on private vehicle with investigation kit containing laptop, printer, etc. There ASI Davinder Singh No. 1964 along with police party and the suspects met, who got his above statement recorded before me, which was read over to him,

who after accepting it to be correct. Signed under the same in Punjabi. Myself ASI attested the signatures. ASI Davinder Singh No. 1964 produced before me and Rajni @ Ashoka along with Pawan Kumar suspect polythene bag lying on the ground and black Splendor motorcycle without number. Myself ASI inquired the name/ address of the suspects. Before checking the polythene bag, I tried to join some public witness in the police party, but nobody joined by expressing their helplessness. Finding no option, myself ASI disclosed my name, rank and posting to suspect Pawan Kumar @ Pamma and Rajni @ Ashoka and in the presence of the police party, checked the polythene bag taken from the hand of Rajni @ Ashoka. from which intoxicating tablets white in colour were recovered. Myself ASI separately asked suspect Pawan Kumar @ Pamma and Rajni @ Ashoka that your search is required to be conducted because it is suspected that you have some intoxicating substance, but you have a legal right that you can get yourself searched through some Magistrate or gazetted officer, who can be called on the spot or you can be taken there. Upon this, Pawan Kumar @ Pamma replied that whatever intoxicating tablets were there with Rajni @ Ashoka, you have recovered the same and I or Rajni @ Ashoka do not have any other intoxicating substance. Similarly, Rajni @ Ashoka also replied that whatever intoxicant I had, the same has been recovered by you and I do not have any other intoxicant. At this, consent memo was prepared which was signed by witnesses and suspect Pawan Kumar put his LTI on the same while Rajni @ Ashoka put her signatures. During personal search of suspect Pawan Kumar @ Pamma, no other objectionable item was found. Similarly, during personal search of Rajni @ Ashoka by Lady Constable Veer Kaur and no other recovered. The recovered white objectionable item intoxicating tablets were counted to be 100 in

number, which were put in a plastic box and separate parcel was prepared and it was sealed with my seal AK and sample seal was prepared separately. Form 29-M was initiated and parcel of contraband along with Form 29-M and sample seal, Splendor motorcycle were taken into police possession vide separate memo. Seal after use was handed over to ASI Davinder Singh 1964. Suspect Rajni @ Ashoka and Pawan Kumar @ Pamma have committed offence u/s 22 of NDPS Act by keeping 100 intoxicating tablets in their possession. Therefore, the original statement is being sent by hand through PHG Balwinder Singh No.2446 to police station for registration of case. After registration of case, FIR number be intimated and control room be informed on wireless. Special reports be issued and sent to the officers concerned. Myself ASI along with police party is busy spot in investigation. Sd/- Ashok Kumar, Incharge PP Simble, Batala dated 27.08.2022. Today in the area of Sagarpura turn at 6:10 PM.

Learned counsel for the petitioner has contended that the alleged recovery of 100 tablets of Intoxicating is small in quantity and that too is not from the possession of the petitioner which has been planted upon the petitioner.

Notice of motion.

On the asking of this Court, Mr. Mohit Chaudhary, AAG, Punjab accepts notice on behalf of the respondent-State and has produced custody certificate and alongwith copy of the report from the Regional Testing Forensic Science Laboratory, which are taken on record.

According to the said report, it is evident that Intoxicating has been found present in the content of the parcel.

As per custody certificate, the petitioner is behind bars for almost 07 months and 22 days and he is involved in another case bearing FIR No. 243 dated 25.11.2021, Police Station Civil Lines Batala, wherein he has also been granted bail.

In view of the above and also taking into consideration the fact that the contraband is non-commercial in quantity and the same is not recovered from the possession of the petitioner and trial is likely to take some time, therefore, no fruitful purpose will be served by keeping the petitioner behind bars, the petitioner is not habitual offender, the petitioner is directed to be released on regular bail on furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

The present petition is, therefore, allowed.

18.04.2023
shruti

(SANDEEP MOUDGIL)
JUDGE

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