

214(ii)

2023:PHHC:070386

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

CRM-M-56014-2022

Date of Decision: 16.05.2023

VEERO BAI

..... PETITIONER

VS

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

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

Mr. Sarbjit Singh Cheema, DAG, Punjab.

GURBIR SINGH, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No. 248 dated 22.09.2022 under Section 22 (Notification No.61) of NDPS Act registered at Police Station Guruharsahai, District Ferozepur.

The case in question is registered on the basis of secret information. As per prosecution version, after sending the information, police started manning the Naka. The petitioner along with co-accused Veer Singh was coming. They on seeing the police party threw polythene bags which were carried in their hands. They were apprehended by the police party. On search of the polythene bag thrown by the petitioner, 160 tablets of Tramadol Hydrochloride (Clovedol 100 SR) were recovered whereas from the polythene bag thrown by co-accused Veer Singh, 400 tablets of Etizolam were recovered.

Learned counsel for the petitioner submits that the recovery of contraband from the petitioner cannot be considered joint with the recovery of contraband from the possession of the co-accused. He has further submitted that the recovery was effected from the alleged polythene bag which was thrown and it was not from the conscious possession of the petitioner. The recovery of petitioner is of non commercial quantity. He has placed a reliance upon judgment “**Kashmir Singh & Anr. Vs. State of Punjab**” in CRM-M-33292-2021 (O&M) decided on 08.02.2022 passed by Coordinate Bench of this Hon’ble Court. The petitioner is in custody since 22.09.2022. The challan has already been presented.

Learned State counsel has opposed the prayer made by the learned counsel for the petitioner and submits that the petitioner and co-accused were coming together so recovery of contraband from the petitioner cannot be taken as individually but both the recoveries are to be considered in joint possession of the petitioner and co-accused. He has not denied the fact that the petitioner is in custody since 22.09.2022 and the petitioner is not involved in any other case.

Heard.

Keeping in view the fact that the recoveries is from the polythene bag which was thrown by the petitioner and not from her personal search and further the petitioner and co-accused were carrying the bags separately so at this stage it cannot be said that both the recoveries are to be considered in joint possession of the petitioner and co-accused. Since recovery from the petitioner is of non commercial quantity and petitioner is not involved in any other case. The completion of trial will also take a long

time, no useful purpose would be served by keeping the petitioner behind bars for a long period.

Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on regular bail, on furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate, concerned.

The petitioner shall get her mobile number registered in the trial Court within 15 days for receiving messages through CIS and shall not change her mobile number during pending of the case. In case of default, the learned trial Court is free to cancel the bail granted to the petitioner.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

(GURBIR SINGH)
JUDGE

16.05.2023
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No