

220+104 **IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM-11208-2023 in/and
CRM-M-55902-2022
Date of Decision: 27.03.2023**

Palo
State of Punjab

Versus

..... Petitioner
..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Amritpal Singh Gill, Advocate
 for the applicant/petitioner.

 Mr. Harjinder Singh Sidhu, AAG, Punjab.

HARSH BUNGER J. (ORAL)

CRM-11208-2023:

Present application is filed for placing on record copies of certain judgments as Annexures A-1 to A-5.

For the reasons mentioned in the application, the copies of judgments, being Annexures A-1 to A-5, are taken on record, subject to all just exceptions.

Application is accordingly disposed of.

CRM-M-55902-2022:

Present petition is filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.116 dated 19.08.2022 (Annexure P-1), under Sections 15(b), 27 and 29 of the Narcotic Drugs and Psychotropic Substances Act, registered at

Police Station Sadar Malout, District Sri Muktsar Sahib, Punjab.

Brief facts of the case are that on 19.08.2022, Assistant Sub Inspector Manjeet Singh, along with Senior Lady Constable Manjinder Kaur, was going towards Village Malout, Ena Khera, Aulakh, Jhorar, etc. in a private vehicle for patrolling purposes and checking suspicious persons and when they reached near *kacha* road leading to Malout then a woman holding a plastic bag in her hand was seen standing alone in the lights of car. Thereupon, Assistant Sub Inspector Manjeet Singh stopped the car near the said woman and asked her the reason for standing there, however, she turned back without telling the reason. Thereafter on suspicion, Assistant Sub Inspector Manjeet Singh with the help of fellow officials nabbed the said woman and asked her the name and address, whereupon she told her name as Palo w/o Bhajan Singh (petitioner herein). Thereafter, Assistant Sub Inspector Manjeet Singh suspected some intoxicant substance in the said plastic bag held by the petitioner and he called the Investigating Officer at the spot. Resultantly, Sub Inspector Darshan Singh reached the spot and told the petitioner that some intoxicant substance is suspected in the plastic bag held by her and she, along with the plastic bag, needs to be searched. Sub Inspector Darshan Singh also informed the petitioner about her legal right that the search can also be conducted by any Gazetted Officer or Magistrate, however, the petitioner reposed faith in Sub Inspector Darshan Singh to conduct the search. During search, *poppy husk* was recovered from the aforesaid plastic bag held by the petitioner, which weighed 3 kgs. along with the plastic bag and thereafter the recovered articles were taken into the police custody.

petitioner is an old lady of about 61 years of age and she has been falsely implicated in the present FIR (Annexure P-1) as nothing was recovered from the petitioner and the alleged recovery is a planted one. Learned counsel submits that even if the facts of the case are taken to be true then also the alleged recovery of 3 kgs. of *poppy husk* is a non-commercial quantity and bar under Section 37 of the Narcotic Drugs and Psychotropic Substances Act is not attracted. It is stated that the application for grant of regular bail moved by the petitioner before the Court of Additional Sessions Judge, Sri Muktsar Sahib, was wrongly declined vide order dated 07.11.2022 (Annexure P-2). It is submitted that the petitioner is in custody since 19.08.2022. It is stated that the investigation of case is complete, challan has already been submitted on 15.10.2022 and even charges have been framed on 24.01.2023. It is stated that no prosecution witness, out of the total eighteen prosecution witnesses, has been examined by now and the conclusion of trial is likely to take long time and no useful purpose would be served by keeping the petitioner behind bars. Learned counsel submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

Status report by way of affidavit dated 26.03.2023 of Mr. Balkar Singh, P.P.S., Deputy Superintendent of Police, Sub Division Malout, District Sri Muktsar Sahib is filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness of the offences and submits that the petitioner is also involved in five other cases of similar nature, however

he fairly states that the petitioner stands acquitted in two of the aforesaid five cases. It is also conceded by learned State counsel that the petitioner is in custody since 19.08.2022. Learned State counsel also does not dispute the facts that the investigation in this case is complete, challan stands submitted, charges have also been framed and none of the total eighteen prosecution witnesses has been examined so far.

I have heard learned counsel for the parties and perused the paper book as well as the status report supplied by learned State counsel in Court today.

The petitioner is an old lady of about 61 years of age and she is in custody since 19.08.2022, i.e. more than 7 months. Investigation in this case is complete, challan stands presented on 15.10.2022 and charges have also been framed on 24.01.2023. There are total eighteen prosecution witnesses cited in the present case, however, none of them has been examined by now. Hence, trial in the case is likely to take long time and no useful purpose would be served by keeping the petitioner behind bars for an indefinite period of time. The alleged recovery in this case is 3 kg. of *poppy husk*, which falls under the category of non-commercial quantity and thus rigours of Section 37 of the Narcotic Drugs and Psychotropic Substances Act are not attracted in this case.

Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to her furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of

petitioner and the petitioner shall inform the concerned Station House Officer about her address at which she intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish her telephone number to the concerned Station House Officer. She would also furnish her undertaking to the effect that she will not indulge in any illegal activity.

Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

The petition is accordingly disposed of.

27.03.2023
Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No