

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-57958-2022

Date of Decision:-05.01.2023

Babli.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Ashok Paul Batra, Advocate for the Petitioner.

Ms. Ramta Chowdhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The prayer in this petition is for the grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.0162 dated 07.07.2022, registered for the offence punishable under Section 22(c) of NDPS Act (in short 'the Act') at Police Station City Muktsar Sahib, District Sri Muktsar Sahib.

2. As per the case of the prosecution, it has been alleged that the petitioner alongwith her co-accused Suneha @ Saneha (since granted bail vide order dated 09.12.2022) was apprehended on the basis of suspicion. 500 tablets of Clobedol-100 SR were recovered from her conscious possession and 450 tablets of Clobedol-100 SR were recovered from the conscious possession of the Suneha @ Saneha.

3. Counsel for the petitioner submits that in view of the fact that the positive case of the prosecution is that separate recoveries were effected and separate memos were prepared, the contraband recovered from both the accused cannot be considered as a joint recovery to the peril of the petitioner. He further contends that since as per the case of the prosecution,

it was a separate recovery from the petitioner, the contraband alleged to have been recovered from her conscious possession was less than the commercial quantity and therefore the rigors of Section 37 of the Act were not attracted. He further contends that the challan stands presented and since all the witnesses cited are official witnesses, there cannot be any apprehension with reference to the tampering of the evidence and thus the further incarceration of the petitioner would not be required. Even otherwise the co-accused of the petitioner namely Suneha @ Saneha had been granted the concession of bail vide order dated 09.12.2022.

4. The Counsel for the State on the other hand does not dispute the fact that the recovery memos prepared at the spot shows that the recoveries had been effected separately and therefore, were considered separate. He admits the fact that the investigation stands completed and the challan stands presented and the co-accused of the petitioner has already been granted the concession of bail by this court vide order dated 09.11.2022.

5. I have heard counsel for the parties and have gone through the records of the case.

6. In view of the fact that the recovery purportedly effected from the petitioner is of non commercial quantity of contraband, the rigors of Section 37 of the NDPS Act would not be applicable to the present case. Further the co-accused of the petitioner namely, Suneha @ Saneha has been granted the concession of bail by this court. The petitioner is in custody since 07.07.2022 and none of the prosecution witnesses have been examined so far. Therefore, the further incarceration of the petitioner is not required.

7. Keeping in view the aforementioned facts and without commenting on the merits of the case, the present petition is allowed and the petitioner **Babli** wife of Sh. Mehta Ram is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, concerned.

The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that she is not involved in any other crime other than the present case.

In addition, the petitioner (or anyone on her behalf) shall

prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

January 05, 2023

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>