

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-58122-2023
Date of decision:- 23.11.2023

Amandeep Kaur @ Pinky

... Petitioner

Versus

State of Punjab

.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms.Satwant Mehta, Advocate
for the petitioner.

Mr.A.P.S. Tung, DAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
126	28.11.2021	Bhikhiwind, District Tarn Taran	21 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”

2. Version of the prosecution is that FIR, Annexure P1, has been registered when a motorcycle without number plate going towards Bhikhiwind Chowk was intercepted. Although the motorcyclist tried to flee but the motorcycle slipped and both the riders fell. The young man driving the motorcycle and lady, who was the pillion rider, threw some packets on the road. The driver of the motorcycle disclosed his name as Gurdyan Singh @ Gogga and the pillion rider, identified herself as Amandeep Kaur @

Pinky, present petitioner.

3. Counsel for the petitioner submits that the recovery allegedly effected from the petitioner is 400 loose intoxicating tablets, which on analysis have been found to contain 157.2 grams of Tramadol Hydrochloride, which falls within the scope of non-commercial quantity. She submits that the mandatory provisions of Sections 42 and 50 of NDPS Act were not complied with at the time of alleged search and seizure. Counsel submits that although petitioner is named as an accused in three other criminal cases under the NDPS Act but the allegations against her in all the cases is of possessing non-commercial quantity. She asserts that the petitioner, who is in custody since 01.12.2021 deserves to be released on bail as the trial is at an initial stage.

4. On the other hand, State counsel upon instructions from SI Balbir Singh has opposed the petition. Custody certificate dated 22.11.2023 has been filed by the State counsel, which is taken on record. He submits that the motorcycle driver was found to be possessing 800 loose tablets, which after testing were found to contain salt Tramadol and its total weight is 323.2 grams. State counsel has opposed the petition by stressing on the criminal past of the petitioner and has expressed an apprehension that in case the petitioner is released on bail, she is likely to indulge in the trade of intoxicants. As per his specific instructions, charge was framed on 29.07.2022 and one out of eleven prosecution witnesses has been examined.

5. Having heard counsel for the parties, this Court is *prima facie* of the view that the petitioner, who is a young married lady deserves the

concession of regular bail. The contraband allegedly recovered from her falls in the intermediate quantity as per the notification issued under the NDPS Act and the bar under Section 37 of the Act will not be a hindrance. The trial is at a nascent stage and the petitioner is in detention for the last more than 21 months.

6. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned. The petitioner shall furnish a solvent local surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

7. While being released on bail, petitioner shall furnish an undertaking by way of an affidavit that henceforth she will not indulge in any unlawful activity. In case she violates the undertaking, State shall be at liberty to seek cancellation of bail.

8. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

23.11.2023
Brij

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No