

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

216 CRM-M-60285-2023 (O&M)
Date of Decision.:08.12.2023

Amanjot KaurPetitioner
Vs.
State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Raj Kumar Gupta, Advocate
for the petitioner.

Mr. Parneet Singh Pandher, AAG, Punjab.

DEEPAK GUPTA, J. (ORAL)

The petitioner is seeking interim bail for 06 months on medical grounds by way of this 2nd petition filed under Section 439 Cr.P.C in case FIR No.114 dated 02.06.2023 registered under Section 15 of NDPS Act, 1985 registered at Police Station Samrala, District Ludhiana.

2. As per the allegations 55 Kg of poppy husk was recovered from the possession of petitioner and co-accused Gurjit Singh @ Jit along with drug money of ₹70,000/-.

3. Learned counsel for the petitioner contends that petitioner had earlier applied for regular bail but at that time she was not aware about her pregnancy and that the earlier petition was dismissed as withdrawn. Learned counsel further contends that petitioner is now at an advance stage of pregnancy. She already has two daughters aged 13 years and 01 year & 03 months. The last delivery of the petitioner was conducted by way of

Caesarean as complications of infection had arisen. Proper treatment of the petitioner is required for delivery.

4. Reply by way of short affidavit of Shri Amar Singh, PPS, Deputy Superintendent Administration Women Jail, Ludhiana along with medical report has been filed on behalf of respondent- State, as per which on 18.11.2023 petitioner had the pregnancy of 26 weeks and 05 days.

5. Although petitioner is alleged to have been found in possession of the contraband falling in commercial category but pregnancy of a woman is a special circumstance, in which the gravity of the offence for the time being is liable to be ignored. Giving birth to a child while in custody is not only traumatic to the mother but also to the child to be born because psyche of a child will always have an adverse impact, as and when said child is questioned about his birth. Besides, dignity is liable to be ensured to a pregnant woman, in view of fundamental right enshrined under Article 21 of the Constitution of India guaranteeing life and liberty. The interest of the child is also to be taken into consideration, who is not expected to be exposed to the prisons, unless and until it is found that there is grave danger in releasing the petitioner on bail. No doubt that Section 37 of the NDPS Act creates fetter on grant of bail in such like cases involving possession of contraband of commercial category but at the same time when bail is considered on humanitarian grounds, said Section 37 of the NDPS Act cannot be considered to act as a blanket ban on the power of the Court to grant interim bail.

6. Having regard to the aforesaid facts and circumstances, and

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without commenting anything further on the merits of the case, when proper delivery of the petitioner is required under medical care, this petition is allowed. Petitioner be granted interim bail for a period of 06 months from the date of her actual release, on her furnishing bail bonds/surety bonds to the satisfaction of the Learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

December 08, 2023
Neetika Tuteja

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No