

Neutral Citation No.2023:PHHC:165697

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-63630 of 2023 (O&M)

Date of decision : 22.12.2023

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.....Petitioner

vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. P.S. Sekhon, Advocate for the petitioner.

Mr. Digvijay Nagpal, Assistant Advocate General, Punjab,
for the respondent -State

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MANJARI NEHRU KAUL, J. (ORAL)

This is second petition seeking the concession of regular bail under Section 439 Cr.P.C., in case FIR No.212 dated 20.12.2022 under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, (hereinafter referred to as 'the NDPS Act'), registered at Police Station City Samana, District Patiala, as the previous petition, seeking similar relief, was dismissed as withdrawn on 14.9.2023.

2. Learned counsel for the petitioner, inter alia contends that the petitioner, who is a lady with two small children, has been in custody since 20.12.2022, for having been nabbed with 1020 tablets of Tramadol. Learned counsel for the petitioner, while drawing the attention of this Court to the FIR, which has been annexed as Annexure P-1, has further contended that no doubt the petitioner was nabbed at the spot, however, she was just pillion riding behind her husband i.e. co-accused who on seeing the Police Party, tried to turn

back the motorcycle, as a result of which she fell down with a bag containing the aforementioned contraband, while her husband fled away and ever since then he was not even in touch with her. Learned counsel submits that infact, she is innocent and had no role to play in the crime in question which is further evident from the fact that she has no criminal antecedents; it was her husband, who was involved in the sale and purchase of narcotic substances, as he was involved in some other cases under the NDPS Act. A prayer, has therefore, been made that in the facts and circumstances, as enumerated hereinabove, the petitioner be extended the concession of bail, as there is no likelihood of the trial concluding in the near future, more so, since none of the 15 prosecution witnesses have been examined so far.

3. Per contra, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, has submitted that the petitioner was apprehended at the spot, when she fell off the motorcycle on which she was pillion riding behind her husband i.e., co-accused. It has been further submitted that her husband fled away from the spot and had since been declared a proclaimed offender. Learned State counsel has also contended, that it was the petitioner herself, who disclosed to the police that the bag contained intoxicant tablets and since her husband was conscious of its contents, he had fled away.

4. On a pointed query, learned State counsel has not disputed that the petitioner has clean antecedents, and is not involved in any other criminal case, much less, under the NDPS Act. It has further been submitted, on instructions, that the next date before the

trial Court is 9.1.2024, when the prosecution evidence is likely to commence.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. The petitioner is a lady having two minor children and has been in custody for more than a year. The investigation in the case in hand is complete and even though charges stand framed, however the prosecution evidence is yet to be recorded. The trial would therefore, take considerable time to conclude. In the facts and circumstances, as enumerated hereinabove, this Court thus deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

7. Needless to say, in case the petitioner misuses the concession of bail granted to her, the State would be at liberty to seek cancellation of the same.

22.12.2023
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking / reasoned Yes / No

Whether reportable Yes / No