



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

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CRM-M-7412-2024**Date of decision: July 02, 2024**

BALWINDER KAUR

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Narender Singh Gill, Advocate
for the petitioner.

Mr. Shiva Khurmi, Assistant Advocate General, Punjab
with HC Ram Naresh.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.135 dated 18.11.2023 (Annexure P-1) under Sections 304, 34 of the Indian Penal Code, 1860, registered at Police Station Koom Kalan, District Ludhiana.

2. Learned counsel for the petitioner submits that a perusal of the allegations levelled in the FIR in question clearly reveals that the deceased (son of the complainant) was in fact a drug addict. It has been further submitted that totally vague allegations have been levelled against the petitioner of having supplied intoxicants to the co-accused, who then allegedly administered the same to the deceased. Learned counsel submits that the false implication of the petitioner in the crime in question is further evident from the fact that she is not involved in any other criminal case, much less under the NDPS Act and hence, there could have been no occasion for her to have supplied any intoxicant to the co-accused. It has also been brought to the notice of this Court that the FSL report also runs contrary to the prosecution case as no traces of any

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drugs/intoxicants were found in any of the exhibits, which were sent to the FSL for forensic examination. Learned counsel submits that the petitioner, who is a lady, has now been in custody since 18.11.2023, and after the challan was presented on 16.01.2024, the charges had not yet been framed. It has also been submitted that since 15 prosecution witnesses have been cited, the possibility of the trial concluding in the near future does not arise.

3. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, on instructions, has submitted that no doubt the petitioner was not present at the relevant time, when the deceased was administered intoxicants through a syringe by the co-accused, however, the complainant had categorically alleged that the intoxicants had been supplied by none other than the petitioner. Learned State counsel, however, has not been able to dispute that the petitioner is not involved in any other criminal case, much less under the NDPS Act, which is evident from the custody certificate of the petitioner filed in the Court today. Learned State counsel, on instructions, has also not disputed the findings of the FSL report with respect to no intoxicants/drugs being found in the exhibits. Learned State counsel has further submitted that the next date of hearing fixed before the learned trial Court is 04.07.2024, when the charges are likely to be framed.

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

5. Before proceeding further, it would be apposite to reproduce the FIR in question, hereinbelow: -

“Statement of Gurcharan Singh son of S. Maluk Singh resident of village Bhaini Sahib, Police station Koomkalan District Ludhiana, aged About 54 years, mobile number 79808-86012 stated that I am



a resident of the above said address and I am doing Path Puja work at Bhaini Sahib, I have four children, a girl Sangeet Kaur, a boy Ganga Singh, Gurmail Singh and is Daya Singh, my boys Ganga Singh and Gurmail Singh stay at home, who are addicted to drugs, my son Daya Singh lives abroad in Thailand. On 17-11-2023 I was present at home, around 5-00/6-00 PM I saw that my two sons went out of the house, on which I suspected that they earlier had use to bring drugs, and even today they went to buy drugs on which I was looking for my boys Gurmail Singh and Ganga Singh while searching towards village Gaahi Bhaini and village Ratnagarh Road I saw on the left side of the road in a deserted place about 8/9 boys were holding both my sons, out of which 5 boys were forcing my boy Gurmel Singh down and 4 girls were holding my son Ganga Singh, when I cried out loud, all of them on seeing me, they all ran away from the spot, on which I took out the syringe from the arm of my son Gurmel Singh and made Gurmel Singh sit down and my sons Gurmail Singh and Ganga Singh told me that we use to take intoxicants from these persons and use to take the same with them. Even today we came to them, where Gurpreet Singh alias Gopi son of Surjit Singh, Seelu son of Chinder, Joginder Singh alias Dodi son of Mukhtiar Singh, Kulwant Singh alias Bhajan son of Bhajan Singh and Mukha Singh son of Balveer Singh were residents of village Chautan. Police Station Koomkalan District Ludhiana and 4 unknown persons were present then Joginder Singh @ Dodi's wife Balwinder Kaur and an unknown woman gave them the intoxicant, on which all these people started telling us use the intoxicant then Gurmel Singh said that I don't want to take drugs now, because I want to quit drugs. Then all these people started forcing us, then Seelu, Gurpreet Singh alias Gopi and 2-unknown persons grabbed my son Ganga Singh and others threw down my son Gurmel Singh and one unknown person and Kulwant Singh alias Laddu caught hold the arms of Gurmel Singh, Mukkha Singh and 1 unknown person caught hold the legs of and started telling him that if we do drugs, we will not let you quit drugs, because you do drugs with us every time, thereafter Joginder Singh @ Dodi injected the intoxicant by using syringe in the right arm of my son Gurmail Singh, in the meantime I reached at the spot and they all left and ran away from the spot leaving my sons behind and I took out the drug syringe from my son's arm and I came home with my sons then around 8-30 PM my son Gurmel Singh's health suddenly deteriorated. Bleeding started oozing out from his nose, when I tried to take my son Gurmel Singh to the doctor in the meantime he died. That my



Son died due to the reason that Joginder Singh alias Godi son of Mukhtiar Singh, Balwinder Kaur wife of Joginder Singh alias Dodi, Kulwant Singh alias Laddu son of Bhajan Singh, Mukkha Singh son of Balveer Singh and 5 unknown persons/women forcibly injected drugs to my son. So far I have been consulting with my family members, appropriate legal action should be taken against these persons. You have written a statement, heard and the same is correct.”

6. A perusal of the FIR in question, as also not disputed by the learned State counsel, reveals that the petitioner was not present either at the place of occurrence or even in close vicinity to the same, when the deceased was allegedly administered intoxicants by the co-accused.
7. In the facts and circumstances as enumerated hereinabove, since the investigation in the case in hand is complete and challan stands presented, coupled with the fact that the petitioner is not stated to be involved in any other criminal case, this Court deems it fit to allow the instant petition, and extend the concession of regular bail to the petitioner.
8. The petition as such is allowed, and the petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.
9. Needless to add here, in case the petitioner is found misusing the concession of bail, the State would be at liberty to approach this Court to seek cancellation of bail to him.

July 02, 2024
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No