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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9324 of 2024(O&M)
Date of Decision: 10.07.2024

Bhani ...Petitioner
vs.
State of Punjab ...Respondent

Coram : Hon’ble Mr. Justice N.S.Shekhawat

Present : Mr. Ruhani Chadda, Advocate
for the petitioner.

Mr.M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 439 Cr.P.C. with a prayer to grant regular bail to him in case FIR No.400 dated 13.11.2022 registered under Sections 21, 29 of NDPS Act, 1985, at Police Kotwali Kapurthala, District Kapurthala.
2. Learned counsel for the petitioner submits that as per case of the prosecution, the co-accused, namely Jiwan Kaur @ Gudo was arrested at the spot, while she was having contraband in her conscious possession. The petitioner was not named in the FIR and has been nominated as an accused in the present case on the basis of the disclosure statement suffered by Jiwan Kaur @ Gudo. He further contends that except the disclosure statement suffered by the co-accused, there is no other evidence against the present petitioner and she deserves to be enlarged on bail. As per learned counsel, the main accused



Jiwan Kaur @ Gudo has already been granted the concession of bail by the Special Court, Kapurthala, vide order dated 12.12.2022 (Annexure P-1). Further, the petitioner is in custody since 29.01.2024 and the challan has already been presented against her.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner was nominated as an accused by the main accused and she was also involved in the case along with the main accused. He further contends that four other cases under the provisions of NDPS Act have been registered against the present petitioner.

4. I have heard the learned counsel for the parties and perused the record.

5. In the present case, the recovery of contraband had taken place from Jiwan Kaur @ Gudo, co-accused who has already been granted the concession of bail by the Special Court, Kapurthala vide order dated 12.12.2022 (Annexure P-1). Admittedly, no recovery of contraband was effected from the present petitioner and the investigation has already been completed in the present case. Moreover, the petitioner is in custody for the last more than five months and the entire prosecution is based on the testimonies of the official witnesses. Even though, other cases under the provision of NDPS Act have been registered against the present petitioner. Still it cannot be a ground for rejection of bail, when the petitioner has been able to make out a case for grant of bail in the facts and circumstances of the present case. The reliance can be placed on the law laid down by the Hon'ble Supreme Court in the matter of



“Prabhakar Tewari Vs. State of U.P., and another” 2020(1) R.C.R. (Criminal) 831 where it has been held that the pendency of several criminal cases against the accused cannot be the basis to refuse the prayer of bail. Similar observations have been made by the Hon'ble Supreme Court in the matter of ***“Maulana Mohd. Amir Rashadi Vs. State of U.P., and another” 2012(1) R.C.R. (Criminal) 586.***

6. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to her furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

- (i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade her to disclose such facts to the Court or to any other authority.
- (ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.
- (iii) The petitioner shall not absent herself from the Court proceedings except on the prior permission of the Court concerned.
- (iv) The petitioner shall surrender her passport, if any, (if already not surrendered), and in case she is not holder of the same, she shall swear an affidavit to that effect.
- (v) The petitioner shall also file her affidavit before the concerned Court, mentioning her ordinary place of residence and number of mobile phone, which shall be used by her during the pendency of the trial. In case of change of place of residence/mobile number, she shall share the details with the concerned Court/learned Trial Court.



- (vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.
- (vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.

7. Pending application, if any, is also disposed of.

10.07.2024.
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(N.S.SHEKHAWAT)
JUDGE

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