



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-9517-2024
Date of decision:28.05.2024

Pema Doma BhutiaPetitioner.

Versus

State of PunjabRespondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Ajay Pal Singh Rehan, Advocate,
for the petitioner.

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SANJIV BERRY, J. (ORAL)

Short reply dated 27.05.2024, filed in the form of affidavit of Deputy Superintendent of Police, Dinanagar, District Gurdaspur, on behalf of State-respondent, is taken on record. Copy thereof has been supplied to learned counsel for the petitioner.

2. Instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR. Details of the FIR are as under: -

FIR No.	Dated	Sections	Police Station
2	11.01.2024	21(a)and 27(a) of the NDPS Act & 25 of the Arms Act	Dinanagar, District Gurdaspur

3. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated



in this case. He contends that the petitioner has no role to play in the alleged occurrence nor any recovery had been effected from 05 persons. He contends that the petitioner was just a passenger in the car in question sitting on the rear seat when the police party apprehended the car and recovered 02 pistols along with 1.5 grams of heroin from dash board of the said car of which the petitioner had no knowledge. He contends that the petitioner is in custody since 11.01.2024 and is having clear antecedents with no other criminal case registered against her. He contends that challan has already been presented in the Court and the petitioner is not required for further investigation. Hence, the present petition seeking concession of regular bail.

4. *Per contra*, learned State counsel, referring to the short reply dated 27.05.2024, (*supra*) has submitted that 02 pistols and 1.5 grams heroin along with Rs. 15,000/- in cash were recovered from the dash board of the car in which the petitioner was found travelling along with the co-accused, namely Rupinder Singh and Kanwaljit Singh @ Kanwal, as such, the petitioner is not entitled to concession of regular bail. He, however, admitted presentation of challan in the learned Trial Court after completion of investigation and that the petitioner is not having any other criminal case registered against her.

5. Taking into consideration the respective arguments and perusing the record, it is evident that as per the case of the prosecution,



when the vehicle in question was signalled to stop by the police, at that time, it was driven by Rupinder Singh while Kanwaljit Singh @ Kanwal and the petitioner were sitting on the rear seat; recovery of 02 country made pistols and 1.5 grams of heroin along with Rs. 15,000/- in cash was effected from the dash board of the car. The petitioner is neither the owner of the car nor the recovery has been effected from her person; challan has since been presented in the Court and the criminal liability, if any, of the petitioner can only be ascertained after the conclusion of trial which will take sufficient long time and in these circumstances, it is observed that no purpose would be served in detaining the petitioner in custody any longer to face the incarceration till the conclusion of trial. Accordingly, without commenting on the merits of the case, instant petition is allowed and the petitioner is ordered to be released on bail on her furnishing surety bonds/bail bonds to the satisfaction of learned Trial Court/Duty Magistrate.

6. The petitioner shall give the undertaking that she will not leave the country without prior permission of the Court; will regularly appear before the learned Trial Court on each and every date; in case of some exigency, she will seek prior permission of the concerned Court qua her exemption to appear on the date fixed and she will not tamper with evidence of prosecution in any manner.



7. It is further made clear that in case the petitioner is found involved in any case under the NDPS Act, after his release on bail, it will be open for the prosecution to move an application for cancellation of his bail in accordance with the law.

8. However, anything observed here-in-above shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

9. Petition stands allowed.

10. Pending miscellaneous application, if any, also stands disposed of.

28.05.2024
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(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |