



**206 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-16221-2024

Date of decision : 13.12.2024

Gurmeet Kaur @ Saroj Rani

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. J.S. Arora, D.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed by the petitioner under Section 439 Cr.P.C. praying for grant of regular bail in case FIR No.94 dated 17.07.2023, under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Kabarwala, District Sri Muktsar Sahib, Punjab .

2. Succinctly, the facts of the case are that on 17.07.2023, the Police party while on patrolling spotted one lady coming from left side of the street who was carrying a polythene bag and on seeing the police she got perplexed and turned around. On suspicion, she was stopped and on asking, she disclosed her name as Gurmit Kaur @ Saroj Rani (petitioner) Wife of Angrej Singh. She was suspected to be carrying some intoxicant in that bag, and thus, the offer was given for her search and on searching the polythene bag which she was carrying, 43 intoxicated pills make Etizolam were recovered from the same and she failed to produce any licence for possession of the same and thus, the FIR was registered and she was arrested on the spot. The samples were taken and sent to the FSL.

Then investigation commenced. Thereafter, the petitioner approached the



Learned Judge, Special Court, Sri Muktsar Sahib for grant of bail, however, after hearing both the sides, the same was declined by the Learned Judge, Special Court, Sri Muktsar Sahib vide order dated 05.12.2023. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. It has been contended by counsel for the petitioner that petitioner has been falsely implicated in the present case. It is submitted that the alleged recovery was made at a public place, however, no public witness was joined by the investigating agencies. He submits that there is a gross violation of mandatory provision of Section 50 of the NDPS Act. He submits that the petitioner is behind bars from the date of her arrest but till date there is no progress in the trial. He submits that though the petitioner is involved in one more case under the NDPS Act which pertains to the small quantity and the petitioner is already on bail in that case. He submits that in the facts and circumstances of the present case, petitioner deserves to be granted regular bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner and on instructions from ASI Dapinder Singh, has submitted that the recovery was effected from the conscious possession of the petitioner which falls under the commercial quantity. He submits that the petitioner is involved in one more case, however, as per instructions, she is on bail in that case. He submits that in the present case, out of 15 prosecution witnesses, only 01 witness has been examined.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner was arrested on 17.07.2023 wherein 43 Etizolam tablets were recovered and as per the FSL report the same



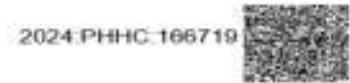
weight 6.3 grams, which is a commercial quantity being above 2.5 grams falls under the commercial quantity. Though the petitioner is involved in one more case, however, as submitted before this Court, she is on bail in that case. In the present case out of 15 prosecution witnesses, only 01 witness has been examined.

6. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. As held by the Hon'ble Supreme Court in **Mohd Muslim @ Hussain Vs. State (NCT of Delhi), 2023 LiveLaw(SC)260**, this Court is of the opinion that the case of the petitioner is covered by the ratio of law laid down by the Hon'ble Supreme Court. In the abovesaid case Hon'ble Supreme Court expressed its views as under:-

19. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.

20. xxxxx

21.it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.



22. xxxxx

23. *There is a further danger of the prisoner turning to crime, “as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal”²² (also see Donald Clemmer’s ‘The Prison Community’ published in 1940²³). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.*

7. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail/surety bonds to the satisfaction of the concerned Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

13.10.2024
ps-I

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