

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

205

CRM-M-18936-2024
Date of decision: 24.04.2024

Divya
Versus
....Petitioner

State of Haryana
...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Dhruv Gupta, Advocate and
Ms. Akanksha, Advocate for the petitioner

Mr. Jagdish Manchanda, Addl. A.G., Haryana

AMAN CHAUDHARY. J (Oral)

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.376, dated 01.07.2023, registered under Sections 21 of the NDPS Act, 1985 (Section 27-A/29 added later on) at Police Station Ambala Cantt., District Ambala.
2. Learned counsel contends that the petitioner is in custody for the last 8 months. Her name surfaced based on the disclosure statement of co-accused Ravinder Kumar @ Ravi. He relies upon judgment passed by Hon'ble The Supreme Court in the case of **Tofan Singh vs. State of Tamil Nadu**, 2021 (1) RCR (Crl.) 1. No recovery has been effected from her and she has been falsely implicated in the case. The said co-accused from whom recovery of 268 grams of heroin was effected, has since been granted bail, after a custody of 8 months by this Court vide order dated 19.03.2024, Annexure P-3. Charges were framed on 23.01.2024, however, none out of 20 prosecution witnesses have been examined. He also relies on the order passed by this Court in **Sandeep Kumar @ Gogi vs.**

State of Haryana in CRM-M-24505-2022 decided on 07.12.2022, wherein the petitioner was granted bail after a custody of almost 9 months, on his having been implicated on the basis of disclosure statement and no recovery was effected from him. The petitioner is involved in one more case, wherein she is on bail and alleged recovery was 8 grams of heroin. Reliance is placed on the judgment of Hon'ble the Supreme Court in **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382.

3. The custody certificate dated 22.04.2024, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 7 months and 29 days.

4. Learned State counsel opposes the bail on the ground that the petitioner was specifically named by the co-accused from whom the commercial quantity of contraband was recovered and is involved in 1 more case under the NDPS Act. He is however unable to controvert the submissions with regard to stage of the case, co-accused has been granted bail and the petitioner being on bail in the other case.

5. Heard.

6. Hon'ble the Supreme Court in the case of **Maulana Mohd. Amir Rashadi** (supra) had held that, "As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."

8. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for last 7 months and 29 days; no recovery effected

from her; is on bail in another case under the NDPS Act; co-accused having been granted bail; charges were framed on 23.01.2024; out of a total of 20 prosecution witnesses, none has been examined so far; the trial is likely to take a considerable time, thus her further incarceration would be violative of her right enshrined under Article 21 of the Constitution of India and the rigors of Section 37 of NDPS Act can be diluted bearing in mind the right to a speedy trial, thus, the present petition for grant of regular bail deserves to be allowed.

9. As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to her furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to her not being required in any other case. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioner shall not commit an offence similar to the offence of which, she is an accused, or for commission of which she is suspected of.
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioner shall not in any manner misuse her liberty.
- (vii) The petitioner shall furnish her address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other

condition, as deemed appropriate while releasing the petitioner.

10. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

11. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

24.04.2024
Hemant

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