

In the High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-23809-2024 (O&M)
Date of Decision:-28.10.2024

Rajji @ Raji... Petitioner

Versus

State of Punjab... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. L.S. Sekhon, Advocate for the petitioner.
Mr. Siddharth Attri, AAG, Punjab.

FIR No.	Dated	Police Station	Section/s
16	8.2.2024	Haibbowal, District Ludhiana	21 and 29 of NDPS Act

GURVINDER SINGH GILL, J. (Oral)

- The petitioner seeks grant of regular bail in respect of the aforementioned FIR.
- The allegations, in nutshell, are that the petitioner was found in possession of 250 grams of ‘heroin’ which she was carrying in a transparent polythene bag while she was walking in a street.
- Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and that falsity of the case would be evident from the fact that the petitioner is alleged to be carrying the contraband in a transparent polythene bag and that the contents of the polythene bag were clearly visible, whereas it is highly unlikely that any accused would be



carrying contraband in such a manner where his detection could be easily possible. It has been submitted that an accused would rather take all necessary steps to conceal the contraband in case any such accused is to indulge in commission of such offences. Learned counsel for the petitioner further submitted that in the instant case the quantity of contraband recovered i.e. 250 grams of 'heroin' would not qualify to be termed as a 'commercial' quantity inasmuch as per Section 2 of sub Section 7(a) of NDPS Act, it is only such quantity which exceeds 250 grams which could be termed as a 'commercial' quantity. Learned counsel in order to hammer forth his aforesaid submissions places reliance upon judgments passed by this Court in CRM-M-811-2014 titled Iqbal Singh Vs. State of Punjab, decided on 10.2.2014; in CRM-M-52950-2021 titled Iqbal Singh Vs. State of Punjab, decided on 9.3.2022 and in CRM-M-18084-2023 titled Makhan Vs. State of Punjab, decided on 4.10.2023.

4. On the other hand, learned State counsel submitted that the petitioner is a habitual offender having been involved in 5 other cases. It has also been submitted that the quantity, in any case, would fall within the category of 'commercial' quantity and, as such, the petitioner does not deserve the concession of bail. It has, however, been informed that the petitioner as on date has been behind bars since the last about 8 months and 13 days. It has further been informed that no PW out of the cited 13 PWs has been examined.
5. This Court has considered rival submissions addressed before this Court.
6. The question as regards the quantity being commercial is certainly rendered debatable inasmuch as several Coordinate Benches of this Court have held



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that it is only the quantity exceeding 250 grams, which could be termed as ‘commercial’ quantity. Still further the fact that the petitioner is alleged to be carrying the contraband in a transparent polythene bag also to same extent raises suspicion inasmuch as any accused would normally take all such precautions to avoid his detection and would not rather move about carrying contraband, which could be visible to all passer-byes. The petitioner, in any case, has been behind bars for a substantial period of about 8 months and 13 days and given the fact that the recovered contraband would rather fall in the category of ‘commercial’ quantity in view of ratio of the aforesaid judgments, the instant petition merits acceptance and is hereby accepted and the petitioner is ordered to be released on regular bail on her furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7. It is, however, made clear that none of the observations made above shall be construed to be an expression on merits of the main case.

28.10.2024
Geeta/P

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No