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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-25280-2024 (O&M)
Date of decision: 29.08.2024

Karmi ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Maninder Singh Saini, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No. 26 dated 11.03.2024, registered under Sections 21, 21(c) and 29 of the NDPS Act, 1985 and Section 25 of the Arms Act, 1959 at Police Station Cantt. Jalandhar.
2. Brief facts of the case relevant for the disposal of the present petition are that on 11.03.2024, co-accused Akash Gupta was apprehended by a police party headed by ASI Balwinder Singh and recovery of 100 grams heroin was effected from him. Thereafter, present FIR was registered. During the course of investigation, co-accused Akash Gupta suffered a disclosure statement that the recovered heroin was supplied to him by Bunty, who is husband of the present petitioner, and he was to deliver the same to someone. On this disclosure, aforesaid Bunty was nominated as accused in this. On 13.03.2024, co-accused Akash Gupta suffered further disclosure

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statement, wherein he stated that he used to sell heroin and ice (*Methamphetamine*) by buying the same from Bunty. He further disclosed that one Sanamdeep used to collect the amount of sale of contraband from him. He also stated that he also used to deliver the cash to the present petitioner at her house. The information regarding the drug money lying in the bank account of Bunty was also given by him. Thereafter, accused Sanamdeep and the present petitioner were nominated as accused in this case. The petitioner was arrested on 13.03.2024. Her disclosure statement was recorded and she got recovered 150 grams ice (*Methamphetamine*) as well as an amount of 8,00,000/- of drug money, which were taken into possession. Thereafter, co-accused Akash Gupta also got recovered a Fortuner car bearing registration number PB-91-9408, from which 160 grams of heroin was recovered. Subsequently, an 1-20 Car bearing registration number CH01-DG-3837 and a pistol of .32 bore along with 04 live cartridges of 7.65 caliber were also recovered on the disclosure of co-accused Akash Gupta. The petitioner had moved an application for grant of regular bail before the Court of learned Judge, Special Court, Jalandhar but the same had been dismissed, vide order dated 20.04.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. No recovery of alleged contraband was made from the petitioner. A false recovery has been planted upon the petitioner. The petitioner has been nominated on the disclosure statement suffered by a co-accused, which is not admissible in evidence. The petitioner is in custody since 13.03.2024. *Challan* has not yet been filed and after presentation of the same, the trial would certainly take a long time. Apart

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from this, learned counsel for the petitioner has argued that the petitioner has three young children and the youngest child, namely Iqbal, was born with some medical issues, for which, he is regularly treated by the pediatrician. There is nobody at home to take care of him and due to the said reason, he has become severely anaemic as he is maintaining very low Hemoglobin. The petitioner has placed on record photocopies of certain medical documents to support her claim. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail.

4. *Per contra*, learned State counsel, on the basis of the reply, which is available on record, has vehemently argued that the petitioner is not entitled to get benefit of bail as a commercial quantity of the contraband was recovered from her. Although, she was nominated in this case on the basis of the disclosure statement suffered by the co-accused, however, subsequent recovery of 150 grams of Methamphetamine and an amount of Rs. 8,00,000/- has been effected on her disclosure. The complicity of the petitioner in the subject offences has been *prima facie* established during investigation. It is further argued that since the recovery of the contraband effected from the petitioner falls under the commercial quantity, the rigors of Section 37 of the NDPS Act would be attracted against her and she is not entitled to get benefit of bail. With regard to the health condition of the minor child of the petitioner, it has been submitted by learned State counsel the medical documents have been manipulated and forged by the petitioner. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable

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length and have also perused the material placed on record.

6. As per the allegations, the petitioner was nominated in this case on the disclosure statement suffered by aforesaid co-accused Akash Gupta, from whom, recovery of 100 grams of heroin was effected. He disclosed that he used to deliver the cash to the present petitioner at her house. The petitioner was arrested on 13.03.2024 and in pursuance of her disclosure statement, recovery of 150 grams ice (*Methamphetamine*) as well as an amount of 8,00,000/- of drug money was effected. The aforesaid co-accused had also got recovered a Fortuner car, from which 160 grams of heroin was recovered as well as an i-20 car and a pistol of .32 bore along with 04 live cartridges were also recovered on the disclosure of co-accused Akash Gupta. The quantity of the alleged contraband recovered from the petitioner falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against her. The arguments raised by learned counsel for the petitioner with regard to discrepancies in investigation cannot be looked into at this stage as the same is to be decided by the trial Court after appreciating the entire evidence and material placed on record before it. So far as the health condition of the minor child of the petitioner is concerned, a perusal of the short reply shows that a verification was made from Dr. Meharpreet Singh, Director, National Clinical Laboratory and it was found that the son of the petitioner was examined on 07.02.2024 and a report of the even date was issued to him. However, the said report has been fabricated by changing its date from 07.02.2024 to 17.06.2024. The petitioner has also placed on record a medical certificate issued by Dr. Ajay, Health Care Clinic, Baba Gadhia, Phagwara. However,

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on verification by the police officials, it was found that no such clinic in the aforesaid name existed in the area. It is further stated that a mobile number i.e. 99153-64591 was mentioned at the said medical certificate and on inquiry, it was found that the same is issued to one Venus Bharti, who has got recorded her statement to the effect that she has no concern with the aforesaid clinic. In view of the same, it is apparent that the petitioner has placed on record forged and fabricated medical record in order to procure a favourable bail order from this Court. The petitioner has placed on record photocopies of certain medical certificate by way of moving an application bearing number CRM-32756-2024. A perusal of the medical record shows that the son of the petitioner is taking treatment from Civil Hospital, Phagwara for vomiting, diarrhea and some other abdomen related problems from 18.07.2024. However, this alone cannot be a ground to grant concession of regular bail to the petitioner keeping in view the severity of allegations levelled against her as well as the quantity of contraband and drug money recovered from her. The child can well taken care of by other members of the family. The well settled proposition of law is that no person accused of trading commercial quantity of narcotics is liable to be released on bail unless the Court is satisfied of reasonable grounds proving the innocence of the accused. Therefore, keeping in view the gravity of allegations as levelled against the petitioner, the quantity of alleged contraband recovered from the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, this Court is of the considered opinion that she does not deserve to be granted concession of regular bail, at this stage. Accordingly, the present

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petition is dismissed.

7. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

29.08.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No