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

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CRM-M-32514-2024 (O&M)
Date of decision: 03.09.2024

Raj**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Avtar Singh Bhatti, 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. 304 dated 29.11.2022, registered under Section 22 of the NDPS Act, 1985 at Police Station Tanda, District Hoshiarpur.

2. Brief facts of the case relevant for the disposal of the present petition are that on 29.11.2022, on receipt of a secret information that the petitioner, Vicky and Kapil Kapoor were involved in selling contraband, a raid was conducted at the informed place and the petitioner along with aforesaid two co-accused was apprehended by the police party and 256 grams of intoxicant substance was recovered from the petitioner, whereas 282 grams and 272 grams of intoxicant substance was recovered from co-accused Vicky and Kapil Kapoor, respectively. They were formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented in the Court and presently, the petitioner along with the

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co-accused is facing trial for commission of aforementioned offence. She had moved an application for grant of regular bail before the trial Court but the same had been dismissed, vide order dated 10.05.2024.

3. Learned counsel for the petitioner has argued that she has been falsely implicated in this case. Rather, the contraband allegedly recovered from the co-accused was planted. She is an old lady. She was granted concession of interim bail awaiting the FSL report and after receipt of the same, she has surrendered back and is in custody since 25.10.2023. She did not misuse the concession of interim bail. The trial is likely to take a long time. No useful purpose would be served by keeping her in custody anymore. 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 status report, 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. She was nabbed at the spot. Her story regarding false implication and plantation of the recovered contraband is concocted one. FSL report has been received, as per which, *Tramadol Hydrochloride* salt has been found in the recovered intoxicant substance. It is further argued that since the recovery of the contraband effected from the petitioner falls under the commercial quantity and she is involved in one more case under the NDPS Act, the rigors of Section 37 of the NDPS Act would be attracted against her and she is not entitled to get benefit of bail. The trial is going at a proper pace. The petitioner may involve in drug smuggling again, if extended benefit of bail. Hence, it is urged that the petition is liable to be dismissed.

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5. I have heard learned counsel for the parties at considerable length and have also perused the material placed on record.

6. As per the allegations, the petitioner along with aforesaid two co-accused was apprehended by a police party on the basis of a secret information and recovery of 256 grams of intoxicant substance, which as per FSL report contained *Tramadol Hydrochloride*, was effected from her. The quantity of the recovered contraband falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted in this case. A perusal of the custody certificate of the petitioner reveals that she is involved in three other cases under the Excise Act. The apprehension of learned State counsel that if extended benefit of bail, the petitioner may indulge in drug smuggling again cannot be stated to be unfounded keeping in view her criminal antecedents. There are serious and specific allegations against the petitioner. There is nothing on record to suggest that there would be any undue delay in conclusion of trial. Therefore, keeping in view the gravity of allegations as levelled against the petitioner, the quantity of alleged contraband recovered from her, 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 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.

03.09.2024

Waseem Ansari

*Whether speaking/reasoned
Whether reportable*

(MANISHA BATRA)

JUDGE

*Yes/No
Yes/No*