

(227)  
IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-34181-2023  
Date of Decision: 30.01.2024

SAROJ

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Amit Choudhary, Advocate  
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

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JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.0285 dated 31.03.2023 registered under Section 21(c) of the NDPS Act, 1985 at Police Station Hisar Sadar, District Hisar.

2. The brief facts of the case are that secret information was received that Sushil son of Atma Ram and Saroj (petitioner) daughter of Mallu Ram who were in the business of selling intoxicating substances such as heroin/Chitta would be travelling on their motorcycle towards Adampur from the Hisar Bus Stand. If a barricading was set up, they could be apprehended.

Based on the aforementioned information, a barricade was set up and the motorcycle was stopped. The rider of the motorcycle disclosed his name as Sushil and got recovered 400 grams of heroin. The pillion rider disclosed her name as Saroj and got recovered 100 grams of heroin.

3. The learned counsel for the petitioner contends that only 100 grams of heroin had been recovered from the petitioner which was less than the commercial quantity. The recovery from the co-accused Sushil could not be added to the recovery from the petitioner as in each case the recovery was effected from polythene/bag being separately carried by the accused. As the petitioner was a lady, a first-time offender and in custody since 31.03.2023, she was entitled to the concession of bail as none of the 15 prosecution witnesses had been examined so far thereby delaying the conclusion of the Trial.

4. A status report dated 26.01.2024 by way of an affidavit of Ashok Kumar, HPS, Deputy Superintendent of Police, Hisar-I, Hisar has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that the petitioner and her co-accused were travelling on the same motorcycle. From the petitioner, the recovery of 100 grams of heroin had been effected and from her co-accused 400 grams. The total recovery effected was 500 grams of heroin which fell into the commercial quantity category. Therefore, she was not entitled to the concession of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 31.03.2023 and that none of the 15 prosecution witnesses had been examined so far.

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

6. Admittedly, the recovery from the petitioner and her co-accused was from the bags separately carried by them. Whether the recoveries could be clubbed together shall be adjudicated upon during the course of the Trial. However, at this stage, as the recovery from the petitioner is of 100 grams of

heroin which is a non-commercial quantity, she is in custody since 31.03.2023 and none of the 15 prosecution witnesses have been examined so far, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Saroj D/o Malu Ram is ordered to be released on bail subject to her furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner (or anyone on her behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

9. The petition stands disposed of.

(JASJIT SINGH BEDI)  
JUDGE

30.01.2024

JITESH

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