



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-34406-2024 (O&M)
Decided on : 06.11.2024

REKHA RANI

. . . Petitioner(s)

Versus

STATE OF PUNJAB

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Abhaysher Singh, Advocate
for the petitioner(s).

Mr. Randhir Singh Thind, DAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.115 dated 13.09.2023, under Sections 21/29 of NDPS Act (later on added Section 27(B) of NDPS Act vide GD No.22 dated 13.11.2023), registered at Police Station Vairoke, District Fazilka.

2. Learned counsel for the petitioner submits that allegedly there was a recovery of 200 grams of heroin from the house of the petitioner which is of non-commercial quantity. He further submits that the petitioner has been falsely implicated in this case and she has undergone an actual custody of 01 year, 01 month and 21 days. He also submits that the similarly situated co-accused Ranjit Kaur has been granted the concession of regular bail by this Court vide order dated 07.08.2024 passed in CRM-M-10917-2024.

3. Learned State counsel has filed the custody certificate in Court today, which is taken on record. As per custody certificate, the petitioner has

undergone an actual custody of 01 year, 01 month and 21 days and she is

involved in 03 other criminal cases, however, she is on bail in all cases. Moreover, on instructions he submits that charges were framed on 18.07.2024. He also submits that out of total 17 prosecution witnesses, 03 witnesses have been examined till date. In view of the serious allegations against the petitioner, she is not entitled to the concession of regular bail.

4. Heard the rival submissions made by learned counsel for the parties.

5. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, the petitioner is in custody since 15.09.2023 and the recovery is of non-commercial quantity. The petitioner has undergone an actual custody of 01 year, 01 month and 21 days and out of 17 prosecution witnesses, 03 witnesses have been examined. The trial of the case will take considerable time and no useful purpose will be served by detaining the accused in custody.

6. As regards the submission of learned State counsel that petitioner is involved in other/one more criminal case(s), reference is placed upon the judgment of the Hon'ble Supreme Court in **Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382** in which, it is held that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other/another case(s). The relevant portion of the said judgment is reproduced herein-below:-

“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.”

7. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on her furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also 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 witness(s).
- (III) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV) The petitioner shall not commit an offence similar to the offence of which she is accused of, or for commission of which she is suspected.
- (V) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or to any police officer or tamper with the evidence.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

9. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

06.11.2024

Ramandeep Singh

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