



CRM-M-39982-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-39982-2024
Decided on : 27.08.2024

Phoolpati Devi
... Petitioner

Versus

State of Punjab
... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Prateek Pandit, Advocate
for the petitioner

Mr. Vinay Kumar, 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.20 dated 31.01.2024 registered under Sections 18, 29 of NDPS Act (Section 29 of NDPS Act added later on), registered at Police Station Basti Bawa Khel, District Jalandhar.

2. Learned counsel for the petitioner submits that it is alleged in the FIR that 5 kgs of opium was recovered from five persons, however alleged recovery from the petitioner is 1 kg of opium which falls under the non commercial quantity. He further submits that petitioner was involved in one case under NDPS Act, in which he stands acquitted.

3. Further, reliance has been placed upon the order dated 05.05.2023

passed by the Co-ordinate Bench of this Court in CRM-M21794-2023 titled as



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Sandeep Singh vs. State of Punjab and he further submits that co-accused have been granted benefit of regular bail vide order dated 15.07.2024 passed in CRM-M-16352-2024 titled as ***Pritma Devi alias Pratima Devi vs. State of Punjab*** and order dated 08.08.2024 passed in CRM-M-37379-2024 titled as ***Bablu alias Bablu Kumar Vishwakarma vs. State of Punjab***.

4. Learned State counsel has filed the custody certificate dated 26.08.2024 in Court today, which is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 06 months and 25 days and there is no other criminal case registered against her. Moreover, on instructions he submits that next date of hearing before the trial Court is 30.08.2024 and out of 14 prosecution witnesses, none has been examined till date. However in view of the serious allegations against the petitioner, she is not entitled to the concession of regular bail.

5. Heard.

6. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. The quantity recovered from her falls under the non-commercial quantity. The petitioner has undergone an actual custody of 06 months and 25 days. Out of 14 prosecution witnesses, none has been examined. The trial of the case will take considerable time and no useful purpose will be served by detaining the accused in custody.

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:-



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- (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.

(KIRTI SINGH)
JUDGE

August 27, 2024
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No