

S. No.217

2024:PHHC:004062

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

CRM-M-43825 of 2023

Date of Decision:12.01.2024

Kavita

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. K.L. Saini, Advocate for the petitioner.

Mr. Sumit Jain, Addl. AG, Haryana.

DEEPAK GUPTA, J. (Oral)

This is third petition filed under Section 439 Cr.P.C., for grant of concession of regular bail in case FIR No.273 dated 05.11.2022 registered under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Bass, District Hansi (Haryana).

By way of first bail petition filed by the petitioner i.e. CRM-M-42448 of 2020, she was released on interim bail vide order dated 09.07.2021, whereas the second petition filed by him, i.e. CRM-M-2642 of 2023 was dismissed as withdrawn vide order dated 24.05.2023.

As per allegations, 24 kg of ganja kept in 13 polythenes was recovered from a Pick-up vehicle, in which petitioner was sitting on the conductor side whereas co-accused were sitting on the backside. Polythenes were kept in between the driver seat and the back-seat.

It is contended by learned counsel for the petitioner that the petitioner has been falsely implicated; that she has nothing to do with the contraband; that she has no criminal antecedents; that she is in custody for the last 01 year 08 months and 19 days and that the trial may take long time to conclude.

It was contended by learned counsel for the petitioner on 28.11.2023 that the petitioner had a paralytic attack and was ailing. Respondent- State was directed to get the petitioner medically examined and submit a report.

Today, reply by way of affidavit of Shri Deepak Sharma, Superintendent Jail, Central Jail-II, Hisar has been received along with the medical status report, as per which petitioner has a known case of seizure disorder and is on regular treatment of a physician at District Civil Hospital, Hisar. Details of various visits of the petitioner to the hospital are also disclosed. However, it is mentioned that presently, the condition of the petitioner is hemo-dynamically stable and that proper treatment is being given to her regularly.

Custody certificate has also been placed on record.

Learned State Counsel does not dispute the fact that the petitioner is in custody for the last 01 year 08 months and 19 days with no criminal antecedents as per the custody certificate. However, bail is opposed on the ground that recovered contraband falls in the commercial category. It is also informed by learned State Counsel that out of 18 witnesses cited by the prosecution, not even a single witness has been examined so far.

Having regard to all the afore-said and circumstances and the fact that the petitioner is a woman, her custody period and the fact that not even a single witness has been examined so far, rigors of Section 37 of the NDPS Act are required to be balanced with Article 21 of the Constitution of India guaranteeing fundamental right to life and liberty, of which speedy trial forms a part, the present petition is allowed. Petitioner is admitted to bail on her furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/ Duty Magistrate concerned, on usual terms and conditions.

January 12, 2024

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(DEEPAK GUPTA)

JUDGE

Whether Speaking/reasoned

Whether Reportable

Yes/No

Yes/No