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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-44820-2023 (O & M)
Date of decision: 04.03.2024

Jasvir Kaur Petitioner

V/s

State of Punjab ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Tejeshwar Singh, Advocate,
with Mr. Mohit Uppal, Advocate,
for the petitioner.

Mr. Deepinder Singh Brar, Sr. DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.129 dated 11.07.2023 under Sections 22 of the NDPS Act, 1985 registered at Police Station Dasuya, District Hoshiarpur, Punjab.

2. The brief facts of the case are that the petitioner-Jasvir Kaur came to be apprehended with 11 injections of Buprenorphine Hydrochloride whereas co-accused Dharamvir Singh came to be apprehended with 12 injections of Buprenorphine Hydrochloride.

3. The learned counsel for the petitioner contends that 11 injections of Burprenorphine Hydrochloride would weigh 22 ml. As 01 ml. is equivalent to 0.997043 grams, therefore, 22 ml. would amount to 21.934 grams of Buprenorphine Hydrochloride. The commercial quantity of Bupronorphine Hydrochloride is 20 grams and the recovery from the petitioner including the container was 21.934 grams, which was marginally above the commercial quantity. As the petitioner was a first-time offender,

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in custody since 11.07.2023 and none of the 11 prosecution witnesses had been examined so far, the Trial of the case was not likely to be concluded anytime soon. Therefore, she was entitled to the concession of bail.

5. The learned counsel for the State, on the other hand, while referring to the reply dated 06.01.2024 contends that commercial quantity of contraband had been recovered from the petitioner because of which Section 37 of the Act would be a bar to the grant of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 11.07.2023 and none of the 11 prosecution witnesses had been examined so far.

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

7. In the cases of 'Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022 decided on 04.04.2022, Pardeep Singh versus State of Punjab, CRM-M-46244-2022 decided on 19.01.2023, Hari Yadav @ Haiya versus State of Punjab (CRM-M-37645-2021) decided on 11.11.2022, 'Jang Kanwar Versus State of Punjab (CRM-M-53415-2021) decided on 19.01.2022, 'Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021, Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021, decided on 27.01.2021, Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M-41039-2019, decided on 26.02.2020, Dalbara Singh Versus State of Punjab, CRM-M-47880-2022 decided on 16.01.2023', and Vivek Watts versus State of Punjab, CRM-M-13791-2022 decided on 15.02.2023, where the recovery from the accused was marginally above the commercial

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quantity for the respective contraband in each case, the Court granted bail to the accused therein.

8. In the present case, the alleged recovery from the petitioner is of 21.934 grams of Buprenorphine Hydrochloride, which is marginally above the commercial quantity of 20 grams. The petitioner is a first time offender with no other case under the NDPS Act registered against her. In this situation, the provisions of Section 37 of the NDPS Act can be relaxed to an extent and the case of the petitioner can be considered for the grant of bail, moreso, when she is in custody since 11.07.2023 and none of the 11 prosecution witnesses have been examined so far.

9. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Jasvir Kaur is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

10. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that she is not involved in any other case except the present one.

11. In addition, 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.

(JASJIT SINGH BEDI)
JUDGE

March 04, 2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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