



CRM-M-44165-2024

1

210

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-44165-2024

Decided on : 13.09.2024

POOJA @ RUBY

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Prateek Pandit, Advocate
for the petitioner(s).

Mr. Vinay Kumar, DAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.27 dated 15.03.2019, registered under Section 21 of NDPS Act, at Police Station Lohian, District Jalandhar.

2. The brief facts of the present case are that the FIR has been registered on the statement of ASI Mandeep Singh who has stated that on 15.03.2019 he along with police party were on patrolling when they received secret information that Veerjodh Singh @ Ruldu and Pooja @ Ruby (petitioner) were travelling with heavy quantity of Heroin from their village on the katcha track and if raid was conducted then they could be apprehended. On this basis FIR was registered. It is further the police version that the above-said accused were apprehended and from Veerjodh Singh @ Ruldu 1.5 Kg Heroin was recovered and from the petitioner 1 Kg Heroin was recovered.



CRM-M-44165-2024

2

3. Learned counsel for the petitioner *inter alia* submits that she has been falsely implicated in this case and there is non-compliance of mandatory provisions of Sections 50, 52-A, 57 of NDPS Act. He also submits that the petitioner has three minor children. The petitioner has already undergone an actual custody of 03 years, 08 months and 24 days.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. As per the custody certificate, the petitioner has undergone actual custody of 03 years, 08 months and 24 days. He further submits that there are three other cases registered against the petitioner, however, in one case, she is on bail and in one case, she has undergone the sentence. He further on instructions from SHO Labh Singh, submits that the charges were framed on 20.07.2019 and out of 13 prosecution witnesses, only four have been examined till date. He, however, submits that she is a habitual offender, therefore, she is not entitled to the concession of regular bail.

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

6. The veracity of the allegations levelled against the petitioner shall be established during the course of the trial. Admittedly, the investigation is complete and out of 13 prosecution witnesses, only four have been examined till date. The petitioner has undergone actual custody of 3 years, 08 months and 24 days. The conclusion of the trial will take considerable time and further incarceration will not serve any purpose.

7. As regards the submission of learned State counsel that petitioner is involved in other criminal cases, the Hon'ble Supreme Court in "**Maulana Mohd.**

Amir Rashadi v. State of U.P. and another", 2012(2) SCC 382 has held that the

facts and circumstances of the present case are to be seen while deciding a bail



CRM-M-44165-2024

3

application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other case. 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.”

8. It would be unjust to keep him behind bars looking at the condition of the jails which are not conducive for rehabilitation process and detaining the accused persons in jails would also tantamounts to violation of Article 21 of the Constitution of India including the right to speedy trial, and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in **“Dataram Singh vs. State of Uttar Pradesh and another, (2018) 3 SCC 22”**.

9. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in **“Abdul Rehman Antulay and others v. R.S. Nayak and another”, 1992(2) RCR (Criminal) 634** observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

10. 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:-

**CRM-M-44165-2024****4**

- (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 him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

11. 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.

12. 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.

13.09.2024

Kavita

**(KIRTI SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No