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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50655-2022
Date of decision : 16.01.2024

PUSHPAPetitioner

Versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Manoj R. Sharma, Advocate for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.178 dated 30th of September, 2022 registered for the offences punishable under Sections 21(b), 21, 27(a), 29 of Narcotic Drugs and Psychotropic Substances Act 1985 (for short, 'the NDPS Act') at Police Station Dinanagar, District Gurdaspur.

2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.

3. The petitioner was admitted to interim bail vide order dated 8th of February, 2023 observing as under :

“Prayer is for grant of regular bail in case having FIR No.178 dated 30.09.2022 registered under Sections 21(b), 21, 27(a), 29 of NDPS Act at Police Station Dinanagar, District Gurdaspur.

The allegations in nut-shell are that police recovered 10 grams of heroin and drug money worth ₹ 78,500/- from the petitioner on 30.9.2022 and since then the petitioner is in custody.

Admittedly the recovery of aforesaid 10 grams of heroin comes under the non-commercial quantity of contraband. However, the State counsel submits that report of FSL is awaited but he admitted that the petitioner is in custody since last 4 months.

The counsel for the petitioner made prayer that in the given circumstances, the petitioner who is aged 70 years of age be given concession of interim bail till the receipt of FSL report.

I have considered the submissions made by counsel for the parties.

Apparently it appears that the present case is of recovery of intermediate quantity of the contraband and report of FSL is awaited and the petitioner is in custody since last 4 months.

In view of the above, the petitioner is ordered to be released on interim bail till the next date of hearing subject to his furnishing bail and surety bonds to the satisfaction of the Court where remand papers are pending.

Now be listed on 29.5.2023.”

4. As per custody certificate the petitioner has one more case under the NDPS Act. However in that case the petitioner was nominated on the basis of disclosure. In the present case the petitioner has already undergone actual custody of 4 months and 16 days and its a case of recovery of 10 grams of *heroin* which is non-commercial quantity. The petitioner is stated to be 70 years old lady.

5. State Counsel is not in posititon to dispute the factual assertions made by counsel for the petitioner based on record.

6. I have heard counsel for the parties and have gone through records of the case.

7. Keeping in view the cumulative effect of the aforesaid facts, without commenting on the merits of the case, the present petition is allowed. Order dated 8th of February, 2023 is hereby made absolute.

8. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent herself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit her passport, if any with the trial Court.
- (vi) The petitioner shall give her cellphone number to the police authorities and shall not change her cellphone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

10. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

January 16, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No