

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53768-2023
DECIDED ON: 01.02.2024

BALVIR KAUR ALIAS BIRO

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Mr. Mohit Thakur, AAG Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail to the petitioner in FIR No.73, dated 10.04.2022, under Sections 21, 22 and 29 of NDPS Act, 1985, registered at Police Station Dharamkot, District Moga.
2. Learned counsel for the petitioner contends that the alleged recovery of 400 tablets of *Atizolam* and drug money of Rs.50,000/- has been planted upon the petitioner. It is asserted that ASI Sarabjit Singh has demanded the money from the petitioner and on account of that she mortgaged her gold and arranged a sum of Rs.50,000/-. It is further asserted on behalf of the petitioner that on 10.04.2022, the police officials forcibly took away Gurjit Singh and present petitioner alongwith Rs.50,000/- and later on not only the recovery was planted, but Rs.50,000/- taken from Balvir Kaur was shown as drug money. He placed reliance upon the order dated 13.09.2022 (Annexure P-2) passed in CRM-M-27881-2022 vide which the

co-accused namely Gurjit Singh @ Toni has been granted the concession of regular bail by this Court.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to the custody certificate, the petitioner is behind the bars for the last 1 year, 9 months and 23 days. He prays for dismissal of the present petition on the ground that the alleged contraband is commercial in nature. He asserts that the petitioner is not a person of clean antecedents, as she is involved in one another case of similar nature, in which she is not on bail.

4. Heard, learned counsel for the respective parties.

5. Be that as it may, considering the custody period suffered by the petitioner i.e., 1 year, 9 months and 23 days added with the fact that challan stands presented and conclusion of trial will take considerable time, which would also curtail her right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the basic principle of criminal jurisprudence i.e, '**Bail is a rule and Jail is an exception**' no useful purpose would be served by keeping the petitioner behind the bars for uncertain period.

6. As far as the contention of learned State counsel with regard to pendency of other case is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as "**Baljinder Singh alias Rock vs. State of Punjab**" decided on 02.03.2023, wherein, this Court observed that pendency of other FIRs involving the accused-petitioner cannot be a predicament to consider the case for anticipatory bail or regular bail, as the evidence of the material involved in those FIRs can be treated in those cases alone and not material in instant FIR against the accused-petitioner to hold him guilty.

7. In the light of the above discussions made hereinabove, the petitioner is directed to be released on regular bail on her furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.
8. The present petition is hereby, allowed.
9. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

01.02.2024

Meenu

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasonedYes/No

Whether reportableYes/No