

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

CRM-M-58488-2023
Date of Decision: 15.02.2024

Joan	vs.	...Petitioner
State of Punjab		...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Vaibhav Bhargav, Advocate with
Mr. Vikas Sharma, Advocate
for the petitioner.

Mr.M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail in case FIR No.239 dated 02.09.2021 registered under Sections 22, 61, 85 of NDPS Act (Section 29 of NDPS Act added later on), at Police Station Gobindgarh Mandi, District Fatehgarh Sahib.

2. Learned counsel for the petitioner submits that the petitioner has been wrongly arrested in the present case and the recovery of 1020 intoxicant tablets have been wrongly shown from him. He further contends that similarly placed co-accused, namely, Chanchal has already been granted the concession of regular bail by this Court, vide order dated 10.10.2023 passed in CRM-M-26325-2023 (Annexure P-1/A). He further contends that the final report under Section 173 Cr.P.C. has already been presented against the petitioner. Learned counsel has placed reliance on the law laid down by Hon'ble the Supreme

Court in the matter of “**Maulana Mohd. Amir Rashadi Vs. State of U.P. and another**”, wherein, the order of Hon’ble the Supreme Court has held as under:-

“ 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.”

3. Still further, the Hon’ble Supreme Court has held in the matter of “**Hasanujjaman and others vs. The State of West Bengal**”, as under:-

“xxx xxx xxx xxx. They were arrested on the spot and have been in custody for more than one year and four months.

3. We have heard learned counsel for the parties and carefully perused the record.

4. The investigation is complete; chargesheet has been filed, though the charges are yet to be framed. The conclusion of trial will, thus, take some reasonable time, regardless of the direction issued by the High Court to conclude the same within one year from the date of framing of charges. The petitioners do not have any criminal antecedents. There is, thus, substantial compliance of Section 37 of the NDPS Act.

5. In such circumstances, but without expressing any views on the merits of the case, we deem it appropriate to release the petitioners on bail subject to the terms and conditions as may be imposed by the Trial Court.

6. Additionally, it is clarified that in case the petitioners are found involved in any other case under the NDPS Act or other penal law, it shall amount to misuse of the concession of bail granted to them today, and in such a case, necessary consequences shall follow.

7. The petitioners are further directed to appear before the Trial Court regularly. In the event of they being absent, it shall again be taken as a misuse of concession of bail.

8. The Special Leave Petition stands disposed of in the above terms.

9. As a result, pending interlocutory application also stands disposed of.”

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that there are serious allegations against the petitioner and he does not deserve the concession of bail by this Court.

5. I have heard the learned counsel for the parties and perused the record.

6. It is apparent from the record that the petitioner was arrested in the present case on 02.09.2021 and is in custody since then. Even, similarly placed co-accused, namely, Chanchal has already been granted the concession of bail by this Court, vide order Annexure P-1/A. Thus, no useful purpose would be served by keeping the petitioner behind bars.

7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

(i) 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 to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

- (iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.
- (iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.
- (v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.
- (vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.
- (vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.

15.02.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No