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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-199-2024
Date of Decision: 18.01.2024

NANCY GHUMAN -PETITIONER

Versus

STATE OF PUNJAB -RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Argued by: Mr. R.S. Cheema, Sr. Advocate with
Mr. Harneet Singh Oberoi, Advocate and
Mr. Satish Sharma, Advocate
for the petitioner.

Mr. Amit Rana, Sr. D.A.G., Punjab.

KULDEEP TIWARI, J.

1. Through the instant petition, the petitioner craves for indulgence of this Court for her being enlarged on regular bail, in case FIR No.47 dated 12.05.2022, under Sections 25-54-59 of Arms Act (offence under Sections 419, 420, 395, 511, 170, 120, 489-B, 489-C IPC added subsequently), registered at P.S. Khamano, District Fatehgarh Sahib.

ALLEGATION AGAINST THE PETITIONER

2. Succinctly stated, the name of the petitioner surfaced as an accused in the instant FIR, solely on the basis of disclosure statement of her ex. husband/co-accused Bhupinderjit Singh. The allegations against the petitioner are that she had supplied fake currency notes to her ex. husband/co-accused Bhupinderjit Singh, and, she had also got recovered fake currency notes and one colour printer from her own house.

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CONTENTS OF THE INSTANT FIR

3. The instant FIR is the outcome of secret information received against one Bharpur Singh and one Mandeep Singh, for carrying illegal arms. Resultantly, without ascertaining the veracity of such secret information and without recovery of any illegal arms, the instant fir was registered merely on the bedrock of secret information. The relevant extract of the instant FIR is extracted hereinafter:-

“.....Then around 4:15 am, a special informant informed me that Bharpur Singh son of Balvir Singh resident of Ucha Reona PS Mulepur District Fatehgarh Sahib, who has illegal weapon going on foot to village Sanghol from the side of Basi Pathana alongwith his companion Mandeep Singh son of Mahinder Singh resident of Wajidpur PS Basi Pathana, District Fatehgarh Sahib. If a suitable place is blockaded now, illegal weapons can be recovered from them. The information is reliable and trustworthy. The said Bharpur Singh and Mandeep Singh keep illegal weapons which fulfill the ingredients of an offence u/s 25/54/59 Arms Act. The case is registered through Ruka against Bharpur Singh and Manpreet Singh under abovementioned offence is sent through Constable Jaspreet Singh no.839/F.G.S to register the case....”

SEQUENCE LEADING TO IMPLICATION OF THE PETITIONER, AND, THE DETAILS OF INVESTIGATION CARRIED OUT SO FAR, AS REVEALED IN THE STATUS REPORT FILED BY THE LEARNED STATE COUNSEL

4. Since the investigation of the instant FIR, which commenced upon its registration on 12.05.2022, has remained yet uncompleted, rather has been stretched out, therefore, it is deemed imperative to thoroughly deal with the facts of the present case.

5. The learned State counsel has placed on record a status report, as furnished on affidavit of Raminder Singh Kahlon, PPS, Deputy Superintendent of Police, Sub Division Khamano, District Fatehgarh Sahib.

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The status report makes the hereinafter extracted revelations.

6. Upon registration of the instant FIR, a raid was conducted, whereupon, Bharpur Singh and Mandeep Singh were apprehended and one pistol was also recovered from the waist of Bharpur Singh, however, no objectionable article was recovered from Mandeep Singh. Despite nothing objectionable being recovered from Mandeep Singh, he was also arrested along with Bharpur Singh on 12.05.2022, and, the recovered pistol was seized.

7. The interrogation of accused Bharpur Singh and Mandeep Singh led to nomination of one Bahadur Singh and one Sehajpreet Singh as accused in the instant FIR, who were arrested on 14.05.2022. During search, one local made 32 bore pistol was recovered from the right pocket waist of accused Sehajpreet Singh, which was taken into police possession, and, the car bearing registration No.PB-11-T-0147, as recovered from them, was also taken into police possession. Furthermore, upon interrogation, accused Bahadur Singh also got recovered one local made pistol 315 bore, in pursuance to his disclosure statement under Section 27 of the Indian Evidence Act, which was also taken into police possession.

8. Upon further interrogation of accused Bahadur Singh and Sehajpreet Singh, one Harman Singh and one Daljit Singh were also nominated as accused in the instant FIR, who were resultantly arrested on 15.05.2022. During search, one local made pistol 315 bore each was recovered from the right pocket of the waist of Harman Singh and Daljit Singh, which were taken into police possession.

9. The further interrogation of accused Bahadur Singh, as made on 16.05.2022, resulted in nomination of H.C. Harbhajan Singh, Chandigarh

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Police, as accused in the instant FIR, and, offence under Sections 419, 420, 395, 511, 170, 120-B IPC were also added.

10. On 17.05.2022, H.C. Harbhajan Singh, Chandigarh Police, was associated in the investigation of the instant FIR, by the D.S.P., Circle Khamano, however, finding his no involvement in the commission of the offences, he was let go. Thereafter, the house of J.E. Lokesh Thaman was searched in the presence of Municipal Councillor, Banur, which resulted in recovery of currency notes for a sum of Rs. 42,61,850/-, which were seized by the team of Income Tax officials.

11. Thereafter, accused Naresh Kumar alias Arjan was arrested in the instant FIR on 08.06.2022, on the basis of the production warrants and with the permission of the Sub Divisional Judicial Magistrate, Khamano. Upon interrogation of accused Naresh Kumar alias Arjan, one Sandeep Singh alias Soni was also nominated as accused in the instant FIR on 25.07.2022 and he was accordingly arrested on 26.07.2022. Upon arrest, Sandeep Singh alias Soni suffered disclosure statement and got recovered one local made pistol 315 bore along with 4 live cartridges of 315 bore pistol and one local made pistol 32 bore along with 6 live cartridges of 32 bore, which were taken into police possession.

12. The interrogation of accused Sandeep Singh alias Soni led to nomination of one Harpreet Singh alias Happy as accused in the instant FIR on 28.07.2022, who was arrested on 28.07.2022. Based upon the disclosure statement of Harpreet Singh alias Happy, local made pistol 315 bore and 6 live cartridges 315 bore were recovered, which were taken into police possession. Moreover, upon interrogation of accused Sandeep Singh alias Soni and Harpreet Singh alias Happy, on 30.07.2022, one Sandeep Singh

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Pawar and one Bhupinderjit Singh alias Bhinda were also nominated as accused in the instant FIR. Resultantly, accused Sandeep Singh Pawar was arrested on 30.07.2022 and based upon his disclosure statement, one local made pistol 32 bore along with 6 live cartridges of 32 bore were recovered, which were taken into police possession.

13. During the course of investigation, the recovered live cartridges and arms were sent for examination to F.S.L., Phase 4, S.A.S. Nagar, whose report is yet awaited.

14. The status report further makes revelations that after great efforts, accused Bhupinderjit Singh, i.e. ex. husband of the present petitioner, was arrested on 22.11.2023 and during interrogation, he suffered a disclosure statement u/s 27 of the Indian Evidence Act, which led to recovery of one local made pistol 315 bore along with 2 live cartridges of 315 bore, fake currency notes worth Rs. 50,000/- (20 fake currency notes of Rs.2000/- and 20 fake notes of Rs. 500/-) and 2 passports issued in the name of Nancy Ghuman (present petitioner) on 23.11.2023, which were taken into police possession. Upon strict interrogation qua currency notes, accused Bhupinderjit Singh confessed that he had printed the recovered fake currency notes with his earlier wife Nancy Ghuman (present petitioner), out of which, he had spent some amount and the remaining amount of Rs.50,000/- had been got recovered by him. He further disclosed that the system and printer used by them for printing the fake currency notes are in the possession of Nancy Ghuman (present petitioner) and the recovered passports also belong to Nancy Ghuman (present petitioner). Accordingly, offences u/s for 489-B and 489-C IPC were added, and, the present

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petitioner was nominated as accused in the instant FIR vide Case Diary dated 23/11/2023.

15. Thereafter, the present petitioner was arrested in the instant case on 24.11.2023 and during interrogation, she confessed her guilt by making admission that she had given the fake currency and her passports to her ex. husband/co-accused Bhupinderjit Singh. Thereafter, on 26.11.2023, the present petitioner suffered a disclosure statement u/s 27 of the Indian Evidence Act and in pursuance thereof, she got recovered one colour printer and one black coloured bag containing 100 fake currency notes of Rs. 500/- (total Rs. 50,000/-), which were taken into police possession.

SUBMISSIONS OF LEARNED SENIOR COUNSEL FOR THE PETITIONER

16. The learned senior counsel for the petitioner has argued that the sequence of events, as narrated in the instant petition, would make it explicitly clear that the investigation carried out so far is a sheer result of manipulation, as it is aimed at entangling the petitioner in the instant FIR, despite her having no concern or connection with the commission of the alleged crime.

17. To lend vigour to his argument qua false implication of the petitioner, the learned senior counsel submits that involvement of the petitioner in the instant FIR is a repercussion of FIR No.240 dated 27.11.2015, which was registered by the petitioner against one Baltej Singh Pannu (Current Media Advisor to Ruling Government), under Sections 376, 420 and 506 IPC, at P.S. Civil Line, Patiala. Since the petitioner remained unsuccessful in securing conviction of Baltej Singh Pannu in FIR No.240, the latter was equipped with a tool to harass and defame the petitioner.

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However, when the harassment became unbearable, the petitioner filed a complaint (Annexure P-7) against said Baltej Singh Pannu before the Chairman, Women Commission.

18. The learned senior counsel has further argued that the harassment to the petitioner did not end here, as, owing to enmity with above named person, the petitioner was, prior to registration of the instant FIR, also falsely implicated in FIR No.02 dated 17.03.2022, under Sections 341, 342, 343, 354, 354-A, 354-B, 354-C, 328, 420, 120-B IPC, registered at P.S. Women Cell, District S.A.S. Nagar. However, in the said FIR, the petitioner was granted the concession of anticipatory bail by a Co-ordinate Bench of this Court, vide order dated 23.05.2022, rendered in CRM-M-16089-2022.

19. The learned senior counsel has also placed reliance upon Annexure P-5, which encompasses an order made by a Co-ordinate Bench of this Court, on 11.11.2022, upon CWP-25699-2022, whereby, the investigating agency was restrained from filing the Final Report, in FIR No.02 dated 17.03.2022, except with prior leave of this Court. The relevant extract of order dated 11.11.2022 is reproduced hereinafter:-

“....Mr. Prashant Manchanda, Addl. A.G., Punjab and Mr. Vikas Arora, AAG, Punjab accept notice on behalf of the respondent No.1-State and pray for two weeks’ time to file response. It is further informed by the learned State counsel that the investigation in the matter is already complete, however, the final report under Section 173 of the Cr.P.C. has not been filed so far.

Adjourned to 30.11.2022.

The final report under Section 173 Cr.P.C. be not filed except with the prior leave of this Court.

Reply, if any, be filed on or before the adjourned date with copy in advance to the learned counsel for the petitioner.

Service upon respondent No.2 be also effected for the date

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*fixed.**Process dasti as well.”*

20. The learned senior counsel submits that when the Punjab Police failed to arrest and prosecute the petitioner in FIR No.02 dated 17.03.2022, inasmuch as, she was granted anticipatory bail therein and filing of challan was also restrained, it caused pain to the Punjab Police and resulted in immediate arrest of the present in the instant FIR, on 24.11.2023, despite her having no concern or connection with the main accused or the allegedly recovered fake currency.

21. Nonetheless, the learned senior counsel has argued that the petitioner has been arraigned in the instant FIR, solely on the disclosure statement of her ex. husband, who was arrested on 22.11.2023, whereas, the petitioner did not have any concern or connection with her ex. husband, after their divorce in the year 2015. Moreover, the recovery, as shown to have been effected from the petitioner, i.e. fake currency of Rs.50,000/- and a colour printer, is also a planted recovery.

22. To strengthen his argument qua planted recovery (supra), the learned senior counsel has argued that when the Punjab Police remained unsuccessful in arresting the petitioner in FIR No.02 dated 17.03.2022, an apprehension had cropped up in the mind of the petitioner that she may again become a prey of false implication, whereupon, she got installed C.C.T.V. cameras at her residence for her security and defence. However, when the police official concerned raided the house of the petitioner, they came to know about installation of C.C.T.V. cameras and they took away the DVR system of the C.C.T.V. cameras, in order to substantiate their false allegations qua recovery. Had the DVR system of the C.C.T.V. cameras not been removed, the story qua recovery, as concocted by the investigating

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agency, would have become exposed and falsified.

23. Insofar as the allegations qua the petitioner possessing two passports is concerned, the learned senior counsel argues that the said allegations are concocted, inasmuch as, the first passport of the petitioner was lost, whereupon, she lodged DDR/UID No.103472 dated 14.03.2022 and thereupon, owing to change of address, the petitioner applied for second passport, which was accordingly issued by the competent authority concerned, after cancelling her first passport. In fact, the current passport of the petitioner is in custody of the investigating officer, in FIR No.02 dated 17.03.2022.

24. Lastly, by drawing attention of this Court towards Annexure 13, which comprises of the orders, whereby, co-accused Bahadur Singh, Sehajpreet Singh, Bharpur Singh, Daljeet Singh, Harman Singh, Mandeep Singh, Sandeep Singh Pawar and Sandeep Singh have been granted the concession of bail by the learned Additional Sessions Judge concerned, the learned senior counsel has craved for the petitioner being treated at par, by granting her the concession of regular bail

SUBMISSIONS OF LEARNED STATE COUNSEL

25. *Per contra*, the learned State counsel has vehemently opposed the grant of regular bail to the petitioner, on the ground that, she is a habitual offender, inasmuch as, apart from the present FIR, she is also involved in FIR No.02 dated 17.03.2022, under Sections 341, 342, 343, 354, 354-A, 354-B, 354-C, 328, 420, 120-B IPC, registered at P.S. Women Cell, District S.A.S. Nagar.

26. He has further argued that the culpability of the petitioner could be ascertained from the fact that not only she got recovered fake currency

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and a colour printer from her house, but she was also seized of two passports, and, on both these passports, she had travelled abroad. Moreover, since the petitioner was well in touch with her ex. husband through Whatsapp calls, therefore, she has rightly been nominated as an accused, on the basis of disclosure statement of her ex. husband.

27. He has further argued that though link has been established between the petitioner and her ex. husband/co-accused, however, the link between petitioner and other co-accused, from whom a number of illegal arms have been recovered, is yet to be established, which can only be done through investigation. Therefore, releasing the petitioner on bail would result in her hampering the progressing investigation.

28. Lastly, the learned State counsel has argued that since the F.S.L. report also establishes that the currency notes recovered from the petitioner are fake currency notes, therefore, the petitioner does not deserve the concession of regular bail.

ANALYSIS

29. Before embarking upon the process of evaluating the arguments addressed by the learned counsels for the parties and penning down any opinion upon the instant petition, it is deemed imperative to capture an overview of some significant legal propositions.

30. “*Bail is the Rule and Jail is an Exception*”. This basic principle of criminal jurisprudence was laid down by the Hon’ble Supreme Court, way back in 1978, in its landmark judgment titled “*State of Rajasthan V. Balchand alias Baliy*”, 1977 AIR 2447, 1978 SCR (1) 535. This principle finds its roots in one of the most distinguished fundamental rights, as enshrined in Article 21 of the Constitution of India. Though the underlying

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objective behind detention of a person is to ensure easy availability of an accused for trial, without any inconvenience, however, in case the presence of an accused can be secured otherwise, then detention is not compulsory.

31. The right to a speedy trial is one of the rights of a detained person. However, while deciding application for regular bail, the Courts shall also take into consideration the fundamental precept of criminal jurisprudence, which is “the presumption of innocence”, besides the gravity of offence(s) involved.

32. In “**Nikesh Tarachand Shah V. Union of India**”, (2018) 11 SCC 1, the Hon’ble Supreme Court has recorded the following:-

“14. In Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 at 586-588, the purpose of granting bail is set out with great felicity as follows:-

“27. It is not necessary to refer to decisions which deal with the right to ordinary bail because that right does not furnish an exact parallel to the right to anticipatory bail. It is, however, interesting that as long back as in 1924 it was held by the High Court of Calcutta in Nagendra v. King-Emperor [AIR 1924 Cal 476, 479, 480 : 25 Cri LJ 732] that the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment. In two other cases which, significantly, are the ‘Meerut Conspiracy cases’ observations are to be found regarding the right to bail which deserve a special mention. In K.N. Joglekar v. Emperor [AIR 1931 All 504 : 33 Cri LJ 94] it was observed, while dealing with Section 498 which corresponds to the present Section 439 of the Code, that it conferred upon the Sessions Judge or the High Court wide powers to grant bail which were not handicapped by the restrictions in the preceding Section 497 which corresponds

to the present Section 437. It was observed by the court that there was no hard and fast rule and no inflexible principle governing the exercise of the discretion conferred by Section 498 and that the only principle which was established was that the discretion should be exercised judiciously. In Emperor v. Hutchinson [AIR 1931 All 356, 358 : 32 Cri LJ 1271] it was said that it was very unwise to make an attempt to lay down any particular rules which will bind the High Court, having regard to the fact that the legislature itself left the discretion of the court unfettered. According to the High Court, the variety of cases that may arise from time to time cannot be safely classified and it is dangerous to make an attempt to classify the cases and to say that in particular classes a bail may be granted but not in other classes. It was observed that the principle to be deduced from the various sections in the Criminal Procedure Code was that grant of bail is the rule and refusal is the exception. An accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. As a presumably innocent person he is therefore entitled to freedom and every opportunity to look after his own case. A presumably innocent person must have his freedom to enable him to establish his innocence.

28. *Coming nearer home, it was observed by Krishna Iyer, J., in Gudikanti Narasimhulu v. Public Prosecutor [(1978) 1 SCC 240 : 1978 SCC (Cri) 115] that: (SCC p. 242, para 1)*

“... the issue of bail is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitized judicial process. . . . After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of procedure established by law. The last four words of Article 21 are the life of that human right.”

29. *In Gurcharan Singh v. State (Delhi Administration) [(1978) 1 SCC 118 : 1978 SCC (Cri) 41] it was observed by Goswami, J., who spoke for the court, that: (SCC p. 129, para 29)*

“There cannot be an inexorable formula in the matter of

granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail.”

30. In *AMERICAN JURISPRUDENCE* (2d, Volume 8, p. 806, para 39), it is stated:

“Where the granting of bail lies within the discretion of the court, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the court, the primary inquiry is whether a recognizance or bond would effect that end.”

It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail.”

33. Also, in ***Siddharam Satlingappa Mhetre v. State of Maharashtra, Criminal Appeal No.2271 of 2010***, the Hon’ble Supreme Court has insisted upon striking a perfect balance of sanctity of an individual’s liberty as well as the interest of the society, in grant or refusing bail. The relevant extract of the judgment (supra) is reproduced hereinafter:-

3. The society has a vital interest in grant or refusal of bail because every criminal offence is the offence against the State. The order granting or refusing bail must reflect perfect balance between the conflicting interests, namely, sanctity of individual liberty and the interest of the society. The law of bails dovetails two conflicting interests namely, on the one hand, the requirements of shielding the society from the hazards of those committing crimes and potentiality of repeating the same crime while on bail and on the other hand absolute adherence of the fundamental principle of criminal jurisprudence regarding presumption of innocence of an accused until he is found guilty and the sanctity of individual liberty.

REASONS FOR ALLOWING THE INSTANT PETITION

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34. This Court has considered the arguments addressed by the learned counsels for the parties and examined the instant petition on the touchstone of the hereinabove extracted settled legal principle(s) of law and is of the considered opinion that the instant petition is amenable for being allowed. This inference stems from the hereinafter extracted reasons.

35. In the present case, the petitioner has admittedly been arrayed as an accused on the disclosure statement of her ex. Husband, however, despite elongated and yet progressing investigation, the investigating agency has not been able to establish any link between the petitioner and the main accused Bharpur Singh, against whom the present FIR was initially registered, on the basis of secret information. The lack of any connection *inter se* the petitioner and the main accused has not been denied, rather has been categorically admitted by the investigating agency, in the status report, as furnished before this Court. The relevant extract of the status report, wherein, the above categoric admission has been made, is extracted hereinafter:-

“That during investigation, no nexus/connection between the petitioner Nancy Ghuman and Bharpur Singh had come on record, however, the connection between the petitioner Nancy Ghuman and Bhupinderjit Singh is established from the screenshots of the call logs of Whatsapp recovered from the phone of Nancy Ghuman wherein she was found to be in contact with the present wife of Bhupinderjit Singh namely Simran Samreet....”

36. The above extracted part of the status report leaves no room for any doubt that, even after approx. 18 months, no nexus *inter se* the petitioner and the main accused Bharpur Singh has yet surfaced in the investigation.

37. Insofar as the connection *inter se* the petitioner and her ex.

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husband is concerned, as alleged to become established, though the investigating agency has enclosed with the status report the screenshots of Whatsapp call logs *inter se* the petitioner and one Simran Samreet, who is the current wife of petitioner's ex. husband/co accused Bhupinderjit Singh, however, to the considered mind of this Court, the said screenshots constitute a frail piece of evidence for the relevant purpose. The reason for drawing the above inference and not assigning any credibility to the Whatsapp call logs (supra), is that, first of all the said calls are not directly between the petitioner and her ex. husband/co-accused Bhupinderjit Singh, rather the same are between the petitioner and the current wife of the petitioner's ex. husband, and secondly, the communication, if any made through the said calls, appertain to the period 22.11.2023, i.e. post the arrest of petitioner's ex. husband/co-accused Bhupinderjit Singh, as he was arrested on 21.11.2023. Insofar as the screenshot of call log appertaining to the period 18.11.2023 is concerned, the same displays only two missed calls, therefore, no communication could be deemed to have taken place on that date.

38. Taking into consideration the analysis made hereinabove, there is no concrete inculpatory evidence available on record, at this stage, against the petitioner, which may connect her with the alleged crime. Insofar as the allegations qua the petitioner being seized of two passports at the relevant time are concerned, the learned senior counsel for the petitioner has hereinabove rendered an explanation thereto, which needs to be examined, during investigation, by the investigating agency. Moreover, co-accused of the petitioner, from whom illegal arms were allegedly recovered, have already been granted the concession of regular bail, and, investigation

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is also not yet complete, therefore, keeping the petitioner behind the bars, who has suffered incarceration of approx. 1½ months, as per her custody certificate placed on record by learned State counsel, would serve no gainful purpose.

FINAL ORDER

39. As a sequel to the discussion made hereinabove, this Court deems it appropriate to grant the concession of regular bail to the petitioner. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

40. Pending application(s), if any, stand disposed of accordingly.

41. It is clarified that anything observed here-in-above shall have no effect on the merits of the trial and is meant for deciding the present petition only.

(KULDEEP TIWARI)
JUDGE

18.01.2024
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No