

2025:PHHC:018455



211.

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

CRM-M-1072-2025

Date of decision: 07.02.2025

Jasmeen

.... Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sandeep Saini, Advocate, for the petitioner.

Mr. Amit Rana, Senior DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Prayer in this petition filed under Section 483 of BNSS is for grant of regular bail to the petitioner in case FIR No.107, dated 09.12.2023, under Sections 18/61/85 of the NDPS Act, 1985, registered at Police Station Sadar Rajpura, District Patiala.

Learned counsel for the petitioner submits that the petitioner, who is 27 years old woman, has been in custody since 09.12.2023 for having been found in possession of 2.6 kgs of opium. It has been also argued that an improbable version has been brought forth that the petitioner and the co-accused were walking on the road carrying the contraband with them and with a child in the lap of the co-accused. It has been further argued that since the petitioner has no previous criminal antecedents, which lends credence to her false implication in the present case. Learned counsel

has also contended that the investigation in the present case is complete with charges also having been framed, however, the possibility of the trial concluding in the near future seems unlikely as only 02 prosecution witnesses have been partly examined; the case is being adjourned on account of either the non-appearances of the prosecution witnesses or at the request of the prosecution witnesses themselves. Learned counsel submits that in the aforementioned facts and circumstances, the petitioner could not be made to languish in jail for reasons not attributable to her but to the prosecution. It has also been submitted that although it is a case of false implication, however, even assuming for the sake of arguments that the alleged recovery had indeed been affected from the petitioner, it was just marginally higher than the minimum classified as 'commercial' under the NDPS Act.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed the custody period of the petitioner nor has the stage of the trial been disputed. However, it has been asserted by the learned State counsel that the petitioner along with co-accused was nabbed on suspicion leading to a recovery of 2.6 kgs of opium, which has been classified as 'commercial' under the NDPS Act. Learned State counsel, on further instructions, has not been able to controvert that the case is being adjourned before the trial Court on account of the repeated non-appearance of the

prosecution witnesses or on a request made for adjournment by the prosecution itself.

I have heard learned counsel for the parties and perused the relevant material on record.

The petitioner, as not disputed by the learned State counsel, has no previous criminal antecedents. She was apprehended and an alleged recovery of 2.6 kilograms of opium (marginally higher than the minimum classified as ‘commercial’ under the Act) was affected from the petitioner. The trial is unlikely to conclude in the near future as out of the 13 prosecution witnesses cited, no one has been examined so far.

In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

Accordingly, the instant petition is allowed and the petitioner be admitted to bail on her furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

Needless to say, in case the petitioner misuses the concession of bail granted to her, the State would be at liberty to seek cancellation of the same.

(MANJARI NEHRU KAUL)
JUDGE

February 07, 2025
sanjeev

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