



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

221

CRM-M-27233-2024

Date of decision: January 10th, 2025

Kulwinder Kaur

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. R.P. Dhir, Advocate
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of regular bail in FIR No.71 dated 24.03.2024 under Section 61 of the Punjab Excise Act registered at Police Station Phillaur, District Jalandhar.

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case for having been allegedly found in possession of 290 bottles of illicit liquor following an alleged secret information. It has been contended that there was non-compliance of the mandatory provisions inasmuch as the provisions of Section 104 of the Cr.P.C. were not adhered to. The non-adherence to the mandatory provisions of law clearly hint towards the petitioner's innocence. It has also been further contended that since the challan already stands presented and even charges stand framed, further incarceration of the petitioner, who has now been in custody since 24.03.2024, would serve no useful purpose as none of the

eight prosecution witnesses have been examined till date and the next date of hearing before the trial Court is 21.01.2025.

3. Short reply by way of affidavit of Deputy Superintendent of Police, Sub-Division Phillaur, District Jalandhar, has been filed in Court, which is taken on record.

4. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has submitted, on instructions, that it was following a tip-off, the petitioner was apprehended leading to the aforesaid recovery; the petitioner was already on probation in another case under the Excise Act, hence, it is evident that she is a habitual offender and there could be a likelihood that the petitioner on being released on bail could yet again indulge in similar illegal activities.

5. Qua non-adherence to the provisions of Section 104 of the Cr.P.C., it has been asserted that although there indeed was an absence of the entries in the concerned register, however, disciplinary action had been initiated against the erring officials. Learned State counsel, on further instructions, has not disputed the custody period of the petitioner nor has he disputed the stage of trial.

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

7. The trial is unlikely to conclude in the near future. The petitioner has been in custody for almost ten months in a magisterial trial.

8. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail 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.

9. Needless to add, in case the petitioner misuses the concession of bail granted to her and is yet again involved in similar offence, the State is granted liberty to approach this Court for cancellation of her bail.

January 10th, 2025
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No