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

CRM-M-28362-2024

Date of decision : 05.02.2025

Sarabjit Kaur**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Simranjot Singh, Advocate and
Mr. Sandeep, Advocate for
Mr. Lupil Gupta, Advocate for the petitioner.

Mr. J.S. Arora, D.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed by the petitioner praying for grant of regular bail in case FIR No.93 dated 20.06.2022, under Sections 22(b) and 29 of NDPS Act, 1985 registered at Police Station Nathana, District Bathinda.

2. Succinctly the facts of the case are that the police party while on patrolling on 20.06.2022, saw one person coming on foot with a transparent polythene envelope in his hand. On suspicion, he was stopped and on asking, he disclosed his name as Ranbir Singh S/o Sukhdev Singh. He was suspected to be carrying some contraband in the polythene envelope and thus, the search was conducted and on conducting the search of the polythene envelope, 810 tablets of Tramadol were recovered. He failed to produce any licence for possession of the contraband and thus, FIR was registered and the petitioner was arrested on the spot.



Investigation commenced and samples were taken and sent to the Forensic Science Laboratory. On 23.06.2022, during investigation, he disclosed about the involvement of Sarabjit Kaur (petitioner) and Gurdev Singh and thus, they were also arrayed as an accused vide DDR No.18 dated 23.06.2022. Hence, the petitioner was arrested on 04.05.2024. Thereafter, the petitioner approached the Ld. Judge, Special Court, Bathinda for grant of bail, however, after hearing both the sides, the same was declined by the Judge, Special Court, Bathinda vide order dated 08.05.2024. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. It has been vehemently contended by counsel for the petitioner that the petitioner was neither named in the FIR nor any recovery was made from her. He submits that 03 days after the recovery of the alleged contraband from the husband of the petitioner i.e. Ranbir Singh, she was arrayed as an accused on the disclosure statement, which is not an admissible evidence. He submits that no independent witness was joined at the time of recovery. He further submits that except the disclosure statement, there is no evidence against the petitioner. It is submitted that the petitioner has been falsely implicated in the present case simply being the wife of co-accused Ranbir Singh. He submits that the petitioner was granted the concession of anticipatory bail vide order dated 05.07.2022 and she has already joined the investigation. He submits that the petitioner has no criminal antecedents as she has never been involved in any other case. He submits that the petitioner is behind bars since the date of her arrest but there is no progress in the trial and thus, in the facts and circumstances of the present case, she deserves to be granted regular bail.



4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the recovered contraband from the husband of the petitioner, as per the FSL report was found to be weighing 372.194 grams of Tramadol, which is a commercial quantity. He submits that thus provisions of Section 37 of NDPS Act, are attracted. He submits that the petitioner was found to be involved in the present case during the investigation on the basis of disclosure statement of the co-accused. He submits that though the petitioner was granted the concession of anticipatory bail, however, on filing of the challan, the petitioner did not appear before the trial Court and proceedings under Section 82 Cr.P.C. were initiated against the petitioner. He submits that out of 14 prosecution witnesses, 08 witnesses have been given up and out of remaining 06 witnesses, 02 witnesses have been partially examined. He has produced the custody certificate of the petitioner in the Court. He submits that in the overall facts and circumstances of the case, petitioner does not deserve to be granted bail.

5. On hearing counsel for the parties and perusing the record, it is deciphered that the petitioner was arrayed as an accused on the basis of the disclosure statement of the co-accused, Ranbir Singh, who is none other than the husband of the petitioner. Though the quantity recovered in the present case falls under the commercial quantity, however, the petitioner is involved in the case on the basis of the disclosure statement. The custody certificate produced would show that her incarceration period is 09 months as on 04.02.2025. It further reflects that there is no other case against the petitioner.

6. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental



right of every accused. As held by the Hon'ble Supreme Court in **Mohd Muslim @ Hussain Vs. State (NCT of Delhi), 2023 LiveLaw(SC)260**, this Court is of the opinion that the case of the petitioner is covered by the ratio of law laid down by the Hon'ble Supreme Court. In the abovesaid case Hon'ble Supreme Court expressed its views as under:-

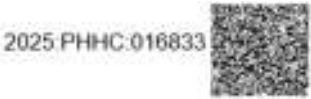
19. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.

20. xxxxx

21.it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.

22. xxxxx

23. There is a further danger of the prisoner turning to crime, "as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal"²² (also see Donald Clemmer's 'The Prison Community' published in 1940²³). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering



of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.

7. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time and the co-accused of the petitioner has already been granted the concession of regular bail by this Court. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail/surety bonds to the satisfaction of the concerned Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

05.02.2025
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(RAJESH BHARDWAJ)
JUDGE

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