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

223

CRM-M-31295-2024 (O&M)
Date of decision: 13.02.2025

Kulwant Kaur @ Kanto**...Petitioner**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. B. S. Bhalla, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 439 of Cr.P.C., is for grant of regular bail to the petitioner in FIR No. 266 dated 28.12.2023, registered under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Ajnala, District Amritsar (Rural).

2. Brief facts of the case relevant for the disposal of the present petition are that on 28.12.2023, when a police party headed by SI Sukhjinder Singh was on patrolling duty, it noticed a male and a female coming on a motorcycle, who on seeing the police party, tried to take a U turn and in that process, the lady, who was riding as pillion, alighted from the said motorcycle and the rider geared up the same. The lady was apprehended

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with the help of Lady Constable Kiran Rani. On interrogation, she disclosed her name as 'Kulwant Kaur @ Kanto', who is the present petitioner. On her search, recovery of 500 grams of heroin was effected. She further disclosed that she and her brother Sucha Singh had come to supply the contraband to a person, who was known to her brother. It was also disclosed by her that her brother Sucha Singh was having relation with Pakistani smugglers and used to procure heroin from them and whenever, he used to go to supply heroin to anyone, she would accompany him. In pursuance of her disclosure statement, 03 kgs. and 538 grams of heroin was further recovered from the house of aforesaid Sucha Singh. After completion of necessary investigation and usual formalities, *challan* was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforementioned offence. She had moved an application for grant of regular bail before the learned trial Court but the same had been dismissed, vide order dated 22.05.2024.

3. Learned counsel for the petitioner has argued that she has been falsely implicated in this case. There is nothing on record to connect the petitioner with the subject crime. Investigation has since been completed and *challan* has been presented. Conclusion of trial is likely to take time. The petitioner is in judicial custody since 28.12.2023. She is not involved in any other case under the NDPS Act. No useful purpose would be served by keeping her in custody anymore. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail.

4. Status report has already been filed by the respondent-State. It

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is submitted therein and learned Assistant Advocate General, Punjab has vehemently opposed the prayer made by the petitioner by arguing that she was apprehended by the police party at the spot and recovery of 500 grams of heroin was effected from her at first instance and thereafter, on her disclosure, 03 kgs. and 538 grams of heroin was recovered from the house of her brother Sucha Singh. The claim of the petitioner regarding his false implication is false and baseless. Proper procedure as prescribed under the law was followed during the course of investigation. Since a huge quantity of the contraband, which falls within the ambit of commercial quantity, has been recovered from the petitioner, the rigors of Section 37 of the NDPS Act would be attracted against her. The trial is going on at a proper pace. If released on bail, the petitioner may abscond or indulge in similar offences. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also perused the material placed on record.

6. As per the allegations, the petitioner along with her brother was coming on a motorcycle on 28.12.2023 and on seeing the police they tried to run away but she was apprehended by the police party, whereas her brother Sucha Singh succeeded in fleeing away on his motorcycle. Recovery of 500 grams of heroin was effected from the petitioner at the spot and thereafter, on her disclosure, 03 kgs. and 583 grams of heroin was further recovered from the house of her brother Sucha Singh. The quantity of the contraband recovered from the petitioner obviously falls within the ambit of commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against her as nothing has been placed on record before this

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Court so as to believe that she did not commit the subject offence or in case, she is released on bail, she would not commit any such or similar offence. The apprehension of learned Assistant Advocate General, Punjab that if extended benefit of bail, the petitioner may abscond or indulge in similar offences cannot be stated to be unfounded at this stage. Trial is going on and there is nothing on record to suggest that there would be any undue delay in conclusion of trial. In cases under the NDPS Act involving commercial quantity, negation of bail is the rule and its grant is an exception. Hence, keeping in view the gravity of allegations as levelled against the petitioner, the quantity of alleged contraband recovered in this case, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioner does not deserve to be granted concession of regular bail, at this stage. Accordingly, the present petition is dismissed.

7. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

13.02.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No