



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
217

CRM-M-43993-2024 (O&M)
Date of decision: 26.03.2025

Pinki Devi @ Pinky Devi

....Petitioner

Versus

State of Punjab

....Respondent

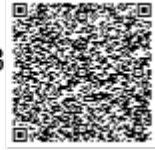
CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Dhanveer Singh, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

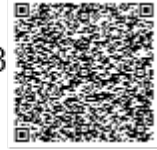
1. Prayer in this petition filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No.14 dated 25.02.2024 registered under Sections 18(c)/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Badali Ala Singh, District Fatehgarh Sahib.
2. As per the prosecution case, on 25.02.2024, a CTU (Chandigarh Government Undertaking) Bus was traveling from the Landran side and was stopped by the police for a routine checking. During the checking, the police entered the bus and discovered the petitioner in possession of Opium in her carry-bag weighing 06 kgs. The petitioner was unable to produce any license or permit for carrying such a narcotic substance. The police attempted to involve independent



witnesses, but none agreed to participate. Subsequently, the petitioner was taken into police custody thereafter, the FIR (supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the FIR (supra) and the alleged contraband was recovered from the bag kept in a public transport and during a random checking, a CTU bus was stopped by the police. He further submits that there is nothing available on record to connect the petitioner with the alleged recovery of Opium effected from the bag. Further, the mandatory provisions of Section 50 of the NDPS Act have not been complied with and none of the co-travelers of the petitioner or the driver and conductor of the bus have been cited as a prosecution witness. The complainant himself is the investigating officer in the present case. Further, the petitioner belongs to the State of Uttar Pradesh and the memos were prepared in Punjabi Gurmukhi language and the signatures of the petitioner were obtained without explaining the contents of the memos prepared at the time of recovery. Additionally, the petitioner is a physically challenged person having Locomotor disability of 48% since her childhood and she is not able to do any physical work without aid. Learned counsel for the petitioner relies upon the Disability Certificate of the petitioner available on record as Annexure P-2 and submits that the veracity of the physical disability of the petitioner has been thoroughly verified.

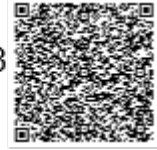
4. Learned counsel for the petitioner further refers to the affidavit dated 18.09.2024, filed by Harpreet Singh, Deputy



Superintendent, New District Jail Nabha in compliance of the order passed by this court on 11.09.2024 and the petitioner is not involved in any other case and she has undergone actual custody of 01 year and 25 days and the trial of the case has not made any substantial progress as out of 12 prosecution witnesses only 01 PW has been partly examined and 03 prosecution witnesses have been given up.

5. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that the petitioner was apprehended at the spot and 06 kgs of Opium was recovered from her bag, however, he could not controvert the fact that the petitioner is suffering from 48% Locomotor disability and she is not involved in any other case and out of 12 prosecution witnesses, only 01 PW has been partly examined.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 01 year and 25 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress. Out of 12 prosecution witnesses, 01 PW has been partly examined so far and 03 prosecution witnesses have been given up.



7. A two Judge Bench of Hon'ble Supreme Court in ***"Satender Kumar Antil vs. CBI"***, (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

8. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Pinki Devi @ Pinky Devi is ordered to be released on regular bail during pendency of the trial, on her furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

9. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The



learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

26.03.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No