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

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CRM-M-59560-2024 (O&M)
Date of decision: 27.02.2025

Karmi**...Petitioner**

Versus

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

Present:- Mr. Harsh Chopra, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition that has been filed by the petitioner for grant of regular bail in FIR No. 26 dated 11.03.2024, registered under Sections 21, 21(c) and 29 of the NDPS Act, 1985 and Section 25 of the Arms Act, 1959 at Police Station Cantt. Jalandhar. The first petition, bearing number CRM-M-25280-2024, was dismissed by this Court by passing a detailed order on 29.08.2024. The operative part of the order dated 29.08.2024 reads as under :

“As per the allegations, the petitioner was nominated in this case on the disclosure statement suffered by aforesaid co-accused Akash Gupta, from whom, recovery of 100 grams of heroin was effected. He disclosed that he used to deliver the cash to the present petitioner at her house. The petitioner was arrested on 13.03.2024 and in pursuance of her disclosure statement, recovery of 150

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grams ice (*Methamphetamine*) as well as an amount of Rs. 8,00,000/- of drug money was effected. The aforesaid co-accused had also got recovered a Fortuner car, from which 160 grams of heroin was recovered as well as an i-20 car and a pistol of .32 bore along with 04 live cartridges were also recovered on the disclosure of co-accused Akash Gupta. The quantity of the alleged contraband recovered from the petitioner falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against her. The arguments raised by learned counsel for the petitioner with regard to discrepancies in investigation cannot be looked into at this stage as the same is to be decided by the trial Court after appreciating the entire evidence and material placed on record before it. So far as the health condition of the minor child of the petitioner is concerned, a perusal of the short reply shows that a verification was made from Dr. Meharpreet Singh, Director, National Clinical Laboratory and it was found that the son of the petitioner was examined on 07.02.2024 and a report of the even date was issued to him. However, the said report has been fabricated by changing its date from 07.02.2024 to 17.06.2024. The petitioner has also placed on record a medical certificate issued by Dr. Ajay, Health Care Clinic, Baba Gadhia, Phagwara. However, on verification by the police officials, it was found that no such clinic in the aforesaid name existed in the area. It is further stated that a mobile number i.e. 99153-64591 was mentioned at the said medical certificate and on inquiry, it was found that the same is issued to one Venus Bharti, who has got recorded her statement to the effect that she has no concern with the aforesaid clinic. In view of the same, it is apparent that the petitioner has placed on

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record forged and fabricated medical record in order to procure a favourable bail order from this Court. The petitioner has placed on record photocopies of certain medical certificate by way of moving an application bearing number CRM-32756-2024. A perusal of the medical record shows that the son of the petitioner is taking treatment from Civil Hospital, Phagwara for vomiting, diarrhea and some other abdomen related problems from 18.07.2024. However, this alone cannot be a ground to grant concession of regular bail to the petitioner keeping in view the severity of allegations levelled against her as well as the quantity of contraband and drug money recovered from her. The child can well taken care of by other members of the family. The well settled proposition of law is that no person accused of trading commercial quantity of narcotics is liable to be released on bail unless the Court is satisfied of reasonable grounds proving the innocence of the accused. Therefore, keeping in view the gravity of allegations as levelled against the petitioner, the quantity of alleged contraband recovered from the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, this Court is of the considered opinion that she does not deserve to be granted concession of regular bail, at this stage. Accordingly, the present petition is dismissed.”

2. In addition to arguments which had been raised in the first petition, learned counsel for the petitioner has argued that co-accused Samandeep has been granted concession of anticipatory bail by this Court, vide order dated 29.07.2024 passed in **CRM-M-28046-2024**. It is also argued that in fact the petitioner was picked from somewhere else and an

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application for preserving the mobile tower location of the members of the raiding police party and CCTV footage of CIA staff was moved, which had been allowed, vide order 18.10.2024. The next argument which has been raised by learned counsel for the petitioner for grant of regular bail to the petitioner is that extended period of incarceration has entitled the petitioner to be released on bail and therefore, it is urged by him that the petition deserves to be allowed.

3. *Per contra*, it is argued by learned Assistant Advocate General, Punjab that the previous petition as filed by the petitioner was dismissed by passing a detailed order by this Court by taking into consideration the contentions raised by both sides. It is submitted that no new change in the circumstances has been pointed out. The case of co-accused Samandeep is not on the similar footing with that of the petitioner. The mere extended period of incarceration alone is not sufficient to grant benefit of bail to the petitioner. Allegations against the petitioner are quite serious in nature. Therefore, it is urged that the petition does not deserve to be allowed.

4. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

5. The previous petition as filed by the petitioner for grant of regular bail had been dismissed vide order dated 29.08.2024. The instant one has been filed within a period of six months of the said order. It is well settled proposition of law that when successive bail applications come before the Court, the Court should be very cautious while considering the same. Successive bail applications can be entertained by the Court when some substantial change is established by the accused thereby making him

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entitled for grant of bail. Reference in this regard can be made to *State of Maharashtra Vs. Captain Buddhikota Subha Rao, AIR 1989 Supreme Court, 2292*, wherein it was observed so and it was further held that the Court should not pass an order of release of an accused on bail in successive bail application merely establishing some cosmetic change between time gap of two applications. There must be some drastic change during the period between two applications. Reference can also be made to *Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and another (2004) 7 SCC 528*, wherein it was observed by Hon'ble Supreme Court that where the offence alleged against an accused is grave, bail cannot be granted only on the ground of long incarceration.

6. After hearing the contentions as raised by learned counsel for the petitioner, I am of the considered opinion that no substantial or drastic change from the date of dismissal of the previous petition as moved by the petitioner has been pointed out or made out from the pleas taken by the petitioner. So far as the claim of the petitioner that co-accused Samandeep has been granted concession of anticipatory bail by this Court is concerned, the case of the petitioner cannot be stated to be at par with him, as subsequent recovery of 150 grams ice (*Methamphetamine*) as well as drug money of Rs. 8,00,000/- was effected from her. Further, merely the extended/prolonged period of incarceration or examination of some material witnesses is not a ground to extend any such benefit. There are serious and specific allegations against the petitioner. The trial is also going on at a good pace and there is nothing to show that there would be any undue delay in conclusion of the same. Keeping in view the nature and gravity of the

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offence, in my considered opinion, it is not a fit case to enlarge the petitioner on bail, especially in view of the fact that no drastic or material change in the circumstances has been made out. In view of the discussion as made above, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

27.02.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No