

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**

Sr. No.: 207

Criminal Miscellaneous No.M-314 of 2024**Date of Decision: February 17, 2025**Manpreet Kaur @ Kirandeep Kaur

..... PETITIONER(S)

*VERSUS*State of Punjab

..... RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**PRESENT:** - Mr. Vipul Jindal, Advocate, for the petitioner.

Mr. Kunwarbir Singh, AAG, Punjab.

MAHABIR SINGH SINDHU, J

Present second petition has been filed under Section 439 Cr.P.C. for grant of bail pending trial to the petitioner in case FIR No.97 dated 05.06.2023 under Sections 18, 21, 25, 27A, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 for short, 'NDPS Act'); Sections 25, 27 of the Arms Act, 1959; and Sections 467, 468, 471 of Indian Penal Code, 1860, registered at Police Station, Gharinda, District Amritsar.

2. Learned State counsel has produced custody certificate dated 14.02.2025, which is taken on record. Registry to do the needful.

3. Allegations are that petitioner alongwith co-accused were running illegal business of drugs and during search of co-accused's house Rajinder Kumar, 4 kg of opium alongwith ₹ 4 lakh as drug money, 2 empty magazine, 4 live cartridges, 2 fake arm license, one Thar, one Creta car and one Activa were recovered.

4. Contends that petitioner is in custody since 05.06.2023; after investigation, report under Section 173 Cr.P.C. was submitted on 02.12.2023, but charges are yet to be considered. Further contends that no recovery memo

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of petitioner was prepared by the police regarding the alleged contraband. Lastly contended that trial is likely to take sufficient long time.

5. *Per contra*, learned State counsel, on instructions from quarter concerned, has acknowledged the above factual position; but opposes the prayer on the premise that commercial quantity of contraband was recovered from co-accused and as such, bar under Section 37 of NDPS Act, would apply. Further submits that from purse of petitioner, ₹ 1 lakh Indian currency notes, key of Thar car and fake Arms license of her husband Rajinder Kumar were got recovered.

6. Heard learned counsel for the both the sides and perused the paper-book.

7. This Court granted interim bail to the petitioner on 06.03.2024 in the following manner:-

Contends, inter alia, that petitioner is in custody since 05.06.2023, after investigation, report under Section 173 Cr.P.C. was submitted on 02.12.2023, but charges are yet to be considered. Specifically contended that no recovery memo of the petitioner was prepared by the police regarding alleged contraband.

Learned State counsel seeks time to verify the above factual position.

Posted for 30.05.2024.

In the meanwhile, petitioner be released on interim bail in the present case till the next date of hearing on furnishing adequate bail and surety bonds subject to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned.

8. It is not in dispute that petitioner remained in custody from 05.06.2023 to 06.03.2024; report under Section 173 Cr.P.C. was submitted on 02.12.2023, but charges are yet to be considered. Learned State counsel is also not able to controvert that after granting interim bail vide order dated

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06.03.2024, petitioner is regularly appearing before learned Special Court and never misused the concession in any manner.

9. Also acknowledged by both sides that there is no other criminal case pending against the petitioner. Although recovery against the co-accused is alleged to be commercial in nature, but concededly, no contraband was recovered from the petitioner. Therefore, it would be debatable during trial as to whether petitioner was in any way connected with the recovery of alleged contraband. Be that as it may, at this stage, it is very difficult to comprehend that petitioner was in conscious possession of the alleged contraband.

10. Thus, in such a scenario, there is no hesitation to record the “Twin Test” satisfaction in favour of the petitioner as per Section 37(1)(ii) of the NDPS Act in the following manner:-

- (i) *Prima facie*, there is no material to indicate that petitioner was found in conscious possession of the alleged contraband; hence, being a debatable question, shall be decided during trial and in such a scenario, it is very difficult to say that petitioner is guilty of the alleged offence.
- (ii) After registration of the FIR in question, petitioner has not been involved in any case under the NDPS Act.

11. Needless to say that above “Twin Test” satisfaction has been recorded only for the purpose of bail application and same be not treated as an opinion on pending trial.

12. It is also not in dispute that petitioner remained in custody for about 9 months and charges are yet to be considered; thus conclusion of trial is likely to take sufficient long time.

13. Consequently, present petition is allowed. Interim order dated 06.03.2024 is made absolute. Petitioner shall be admitted to bail on her



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furnishing bail/surety bonds to the satisfaction of learned Special Court/Chief Judicial Magistrate/Duty Magistrate concerned.

14. Petitioner shall appear on each and every date of hearing and to fully co-operate with learned Special Court without seeking any unnecessary adjournment(s).

15. The above observations may not be construed as an expression of opinion on the merits of the case.

16. It is clarified that in case of recurrence or any misuse of concession of bail on the part of the petitioner, State of Punjab would be at liberty to move an appropriate application for recalling of this order.

Pending application(s), if any, shall also stand disposed off.

(Mahabir Singh Sindhu)
Judge

February 17, 2025
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No