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2023:PHHC:115824
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5873-2023 (O&M)
DECIDED ON: 04.09.2023

RAJBIR SINGH @ RAJU @ RAJANBIR SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Kulbhushan Raheja, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail to the petitioner in FIR No.157, dated 11.06.2021, under Sections 21(c) of NDPS Act, 1985, registered at Police Station Sultanpur Lodhi, District Kapurthala.

2. Learned counsel for the petitioner contends that actually the alleged recovery of 260 grams heroin was not effected from the petitioner, but has been planted, which is little more than the commercial quantity. He further asserts that even as per the case of the prosecution, the packet from which the contraband has been recovered was thrown by the petitioner and was seen by the patrolling party and on that suspicion, he has been apprehended, apart from that there is no evidence to connect the petitioner with the alleged recovery of contraband.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He prays for dismissal of the present petition stating that the petitioner is involved in various other cases of heavy quantity of contraband recovered from him, though, he has no answer to the ratio laid down by this Court

in *Baljinder Singh Alias Rock vs. State of Punjab decided on 03.03.2023*, wherein material involved in other FIRs is to be read as part of evidence in that FIR alone and cannot be taken into consideration in the instant FIR either to reject bail or during the course of trial for conviction purpose. Though, it definitely gives background of the antecedents and criminal intents of the petitioner being habitual offender involved time and again in the same offence.

4. Be that as it may, according to the custody certificate, the petitioner has suffered incarceration of 2 years, 2 months and 8 days, wherein charges were framed on 12.04.2022 and out of total 8 prosecution witnesses only 1 stands examined so far, which shows that trial is likely to take sufficient time, no fruitful purpose would be serve by keeping the petitioner behind the bars for an indefinite period, wherein bail is a rule and jail is an exception and it would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of Constitution of India, as has been time and again discussed by this Court, while relying the judgment of the Apex Court passed in *Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131*.

5. In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

6. The present petition is, hereby, allowed.

7. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

04.09.2023

Meenu

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