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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-17600-2023
DECIDED ON: 20.04.2023

AMAN

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Piyush Sharma, Advocate for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

The instant petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in FIR No.263 dated 18.07.2022 under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 (Sections 25 and 29 added later on) registered at Police Station City Ferozepur, District Ferozepur (Annexure P-1).

Learned counsel for the petitioner contends that no recovery whatsoever has been effected from the petitioner except a gun and he has been roped in the instant FIR merely on the basis of the disclosure statement made by the main accused namely Samuel Bhatti.

Notice of Motion.

On the asking of the Court, Mr. Rajiv Verma, DAG, Punjab accepts notice and has filed custody certificate dated 19.04.2023, which is taken on record.

According to which, the petitioner has undergone 08 months and 27 days of actual

custody. However he contends that the petitioner is involved in six other cases including NDPS and Arms Act. In the instant case also it is an admitted position on the part of the learned State counsel that no recovery was effected from the petitioner except a gun and therefore the Arms Act Section 25 has been invoked against him.

Controverting the aforesaid fact learned counsel for the petitioner submitted that though the gun belongs to the petitioner but the same has been recovered from the main accused Samuel Bhatti.

In the light of the fact that though the nature of contraband is commercial in nature i.e. 260 Grams of heroine and admittedly the weapon has been recovered from the co-accused of the petitioner and he is involved in six other cases. He has suffered 08 months and 10 days in judicial custody. Learned counsel has drawn an attention of this Court to the order dated 27.02.2023 whereby the anticipatory bail granted to the co-accused namely Ganesh vide order dated 18.08.2022, has been made absolute vide order dated 27.02.2023 (Annexure-P-2).

A Division Bench of this High Court in ***Rajender Singh vs. State of Haryana, 2022(2) R.C.R. (Criminal) 85*** has held that a right under Article 21 of the Constitution of India includes right to speedy trial and expeditious disposal which is also in public interest primarily showing concern on a following view point.

(a) the period of remand and pre-conviction detention should be as short as possible. In other words, the

accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;
(b) the worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and
(c) undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non-availability of witnesses or otherwise.

Considering the said principle alone, the Hon'ble Apex Court in the case of ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131*** has held that the bail is the rule and jail is an exception.

However, on the face of it, on a mechanical examination, it is a matter of record that out of 6 pending FIRs, the petitioner is on bail in 2 FIRs and in other pending FIRs he is not on bail. No doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial the concession of bail.

Considering the facts and circumstances of the case, the investigation is complete and nothing has been recovered from the petitioner. The trial is likely to take some time, therefore, no fruitful purpose will be served by keeping the petitioner behind bars, the petitioner is directed to be released on regular bail on

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furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

The present petition is, therefore, allowed.

(SANDEEP MOUDGIL)
JUDGE

20.04.2023

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