

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18787-2023
DECIDED ON: 04.08.2023

SUKHWANT SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Jagdip Kaur, Advocate for
Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

Mr. Karan Puggal, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 17, dated 27.01.2021, under Section 22 of NDPS Act, 1985 and Section 192 of M.V. Act, registered at Police Station Sri Muktsar Sahib, Distt. Sri Muktsar Sahib.

Learned counsel for the petitioner contends that its a case of false implication, wherein the alleged contraband i.e., 1900 tables of Clovedol-100 SR containing salt *Tramadol* Hydrochloride has been recovered. It is argued on behalf of the petitioner that he has never been involved in any such offence earlier and has been dragged in the instant FIR due to political vendetta alleging that the said tablets, which were found to be in a white plastic bag were without permit or licence. It is also the assertion of the counsel for the petitioner that he is in custody since 27.01.2021, wherein challan stands filed on 06.07.2021 and out of total 18 prosecution witnesses, none has been examined so far, which is curtailing the right

of the petitioner for speedy trial speedy trial and expeditious disposal, as enshrined

under Article 21 of the Constitution of India as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.***

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 He prays for dismissal of the present petition stating that the earlier petition was dismissed as withdrawn, once the Court was not inclined to entertain the prayer for grant of regular bail vide order dated 13.12.2022 (Annexure P-4) passed by this Court in CRM-M-48429-2022. He further submits that petitioner is involved in two other cases, meaning thereby he is a habitual offender and does not deserve the concession of bail at this stage.

However, on a query put by this Court, learned State counsel also informs the Court that the charges stands framed on 28.01.2021, but could not controvert the fact that there are total 18 prosecution witnesses out of which none has been examined so far.

Considering the facts in totality that the petitioner has suffered incarceration of 2 years, 6 months and 7 days and alleged recovery is disputed to have been effected from the conscious possession of the petitioner, who is claiming false implication, which cannot be ruled out looking into the totality of facts and circumstances, as narrated in the FIR alone. At this stage, no witness has been examined so far, which shows that trial is likely to take long time, no fruitful purpose would be served by keeping the petitioner behind the bars for an indefinite period, which would also violate the principle of Article 21, as has been discussed hereinabove.

As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as ***“Baljinder Singh alias Rock vs. State of***

Constitution of India, this Court has held that 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.

In light of the above, 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.

The present petition is, hereby, allowed.

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

04.08.2023

Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>