

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20962-2023 (O&M)
DECIDED ON: 21.07.2023

MANJEET SINGH

.....PETITIONER

VERSUS

UNION OF INDIA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. N.S. Sodhi, Advocate
for the petitioner.

Mr. Rajiv Sharma, Sr. Panel counsel for UOI.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail in FIR No.63, dated 26.11.2020, under Sections 8, 21, 23, 25 & 60 of NDPS Act, 1985, registered at Police Station NCB Amritsar.

2. Learned counsel for the petitioner contends that the petitioner has faced custody of more than 2.5 years apart from the fact that there is no other case of any nature qua the petitioner, which is suffice to demonstrate the antecedents of the petitioner. It is also the assertion of the petitioner that mandatory provisions of NDPS Act have not been complied with while registering the instant FIR and otherwise challan stands filed, charges have been framed and trial is moving at a snail pace and in the light of the same, neither the petitioner is required for any custodial interrogation, nor any recovery is effected from him.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He could not controvert the fact with regard to the custody faced by the petitioner i.e., 2 years, 7 months and 33 days and is not involved in any

other case. However, he contends on the strength of quantity of contraband i.e.,

1.220 gram heroin recovered from the tank of the tractor to seek dismissal of the instant petition.

4. Be that as it may, the petitioner is a person of clean antecedents, who is not involved in any other case, as is evident being an admitted position at the end of counsel for Union of India as well and in the trial, out of total 62 witnesses only 19 have been examined so far, after framing of the charges.

5. Having regard to the orders passed by the Apex Court in ***Nitish Adhikary @ Bapan vs. State of West Bengal SPL (Crl) No.5769 of 2022 decided on 01.08.2022 and Dheeraj Kumar Shukla vs. State of Uttar Pradesh, SPL (Crl.) No.6690/2022*** decided on 25.01.2023, Section 37 would not be a bar wherein trial is being prolonged for an unreasonable time as is in the present case it is moving at a snail's pace after framing of charges on 19.07.2022. This very fact is evident from the statement of State counsel that out of 13 witnesses only one witness has been examined so far and in that eventuality, it is abundantly clear that it will take certainly long time to conclude and detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle "Bail is a rule, jail is an exception" as elucidated in the judgement of Apex Court in ***"Dataram Singh vs. State of Uttar Pradesh and another;, (2018) 3 SCC 22"***. 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.

5. In light of the above, 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 any observation made hereinabove, shall not be construed as an expression of opinion on the merits of the case.

21.07.2023

Meenu

(SANDEEP MOUDGIL)
JUDGE

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