

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21984-2023
DECIDED ON: 17.07.2023

JATINDER SINGH @ JASS @ NIKKA
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Jasbir Singh Dadwal, Advocate
for the petitioner.

Mr. Karan Puggal, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 of Cr.P.C., seeking regular bail in FIR No.200, dated 18.11.2021, under Sections 21-C, 25 and 29 NDPS Act, 1985, registered at Police Station STF, SAS Nagar, Mohali.
2. Learned counsel for the petitioner contends that the petitioner was only a pillion rider on the motorcycle alongwith the co-accused namely Kashmir Singh. It is also his assertion that the alleged recovery of 330 grams of heroin was effected from boot space of the said Aactiva Scooter and nothing has been recovered from the conscious possession of the petitioner in any manner whatsoever.
3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. Custody certificate depicts that the petitioner is involved in two other cases bearing No.202 dated 02.06.2022, under Sections 42/52 of Prison Act and Section 22/61/85 of NDPS Act, Section 25, 54 and 59 of Arms Act, registered at Police Station Islamabad and FIR No.413 dated 02.09.2022, under Section 42/52-A of Prison Act, registered at Police Station Islamabad.

4. Learned counsel for the petitioner controverts the involvement of the petitioner in FIR No.202 dated 02.06.2022 on the premise that this FIR was lodged, while the petitioner was in custody in the present FIR in question, therefore, involvement of NDPS case does not arise, which is absolutely false implication.

5. Learned State counsel could not controvert the fact of the petitioner being on pillion rider of the Aactiva Scooter and also in consonance with the submissions made by counsel for the petitioner that no recovery from the possession of the petitioner was effected, except from the boot space of the said vehicle.

6. Considering the custody period suffered by the petitioner i.e., 1 year, 27 months and 23 days and also the fact that the petitioner is not involved in any other NDPS case, as is crystal clear from the custody certificate added with the fact that out of total 12 prosecution witnesses, only 1 has been examined, which shows that trial is likely to take sufficient time, no useful purpose would be served by keeping the petitioner behind the bars.

7. 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 Punjab”*** decided on 02.03.2023, wherein, while referring Article 21 of the 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.

8. 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.

9. The present petition is, hereby, allowed.
10. 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.

17.07.2023

Meenu

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No
Yes/No