

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22177-2023
DECIDED ON: 24.08.2023

RAMANDEEP SINGH
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been preferred under Section 439 Cr.P.C., seeking regular bail in FIR No.33, dated 24.02.2021, under Section 22 of NDPS Act, 1985, registered at Police Station Lalru, District SAS Nagar (Mohali).
2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and no recovery has been effected from the conscious possession of the petitioner, who has been apprehended on the basis of suspicion. He asserts that the Section 50 of Act has not been complied with in letter and spirit.
3. It is also the assertion of the counsel for the petitioner that he is in custody since 26.02.2021, wherein out of total 11 prosecution witnesses, only 3 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.

4. 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 He prays for dismissal of the present petition stating that the earlier petition was dismissed as withdrawn, once the Court was not inclined to entertain the prayer for grant of regular bail vide order dated 14.02.2023 (Annexure P-4) passed by this Court in CRM-M-41482-2021.

5. Considering the facts in totality that the petitioner has suffered incarceration of 2 years, 5 months and 29 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, 2 witnesses 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.

6. In light of the above discussions made hereinabove as well as judgment of Apex Court rendered in *Dheeraj Kumar Shukla vs. State of Uttar Pradesh, SLP(Crl) No.6690 of 2022*, wherein it has been held that though the quantity recovered from the petitioner is commercial in nature and the provisions of Section 37 of the Act may ordinarily be attracted. However, in the absence of criminal antecedents and the fact that the petitioner is in custody for the last two and a half years, we are satisfied that the conditions of Section 37 of the Act can be dispensed with, 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.

7. The present petition is, hereby, allowed.

(SANDEEP MOUDGIL)
JUDGE

24.08.2023

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