

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

211

CRM-23343-2023

Date of Decision: 15.05.2023

Akash @ Maan

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rajat Dogra, Advocate for the petitioner.
Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J. (Oral)

1. This is a petition seeking regular bail in FIR No.0219, dated 07.07.2022, under Section 379-B and 411 of IPC, 1860 (Section 201 of IPC, 1860 added later on) registered at Police Station Civil Lines, Amritsar, District Amritsar.

2. Learned counsel for the petitioner has draw attention of this Court to an order dated 06.12.2022 passed by Judge, Special Court, Amritsar whereby the petitioner was granted regular bail in FIR No.244/2022, under Section 21/61/85 of the NDPS Act, Police Station Civil Lines, Amritsar in which he was apprehended for having in an illegal possession of 21 grams of heroin which was non-commercial in nature.

3. Learned counsel for the petitioner has asserted that on the previous date, when the earlier petition was ordered to be dismissed as

withdrawn vide order dated 28.04.2023, the learned State counsel inform the Court that the petitioner is involved in another case of NDPS in which he is not on bail.

4. Learned State counsel has produced the custody certificate of the petitioner, which is taken on record. According to the custody certificate, petitioner is behind the bars for the last 9 months and 4 days. He states that there are other cases pending against the petitioner and he is not on bail in those cases. He further states that since the petitioner was not named therein and has been arrayed as accused on subsequent investigation and disclosure statement of the other co-accused added with the fact that recovery stands effected wherein challan stands presented on 08.11.2022 and the custodial interrogation of the petitioner is not required.

5. Having examined the submissions made today before this Court and considering the gravity of offence of the instant FIR as alleged qua the petitioner and in the other FIR in which the petitioner is already on bail and that too where the recovery of contraband was non-commercial in nature, there is no reason for this Court to deny the instant petition particularly in the light of the judgment rendered by this Court in CRM-M-25914-2022 wherein Article 21 has been discussed which enshrines right to life along with right to speedy trial as well and petitioner in the instant case has suffered 9 months and 4 days of custody so far. Evidence and the incriminating material of each case has to be decided by the trial Court in the evidence of that case alone and not to be taken into account of another case during the course of trial to convict the petitioner.

6 In light of the above no fruitful purpose would be served by

keeping the petitioner behind the bars, therefore, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

7 The present petition is, hereby, allowed.

(SANDEEP MOUDGIL)
JUDGE

May 15, 2023
Rajeev (rvs)

Whether speaking/reasoned	Yes
Whether reportable	No