

**204 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CRM-M-27542-2022**

**DECIDED ON: 28<sup>th</sup> APRIL, 2023**

**KHUSHBAG SINGH @ BABLU**

**.....PETITIONER**

**VERSUS**

**STATE OF HARYANA**

**.....RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.**

Present: Mr. J.S. Sandhu, Advocate  
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

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**SANDEEP MOUDGIL, J (ORAL)**

1. This petition has been filed under Section 439 Cr.P.C., seeking regular bail to the petitioner in FIR No.13, dated 11.01.2021, under Sections 22(C) of NDPS Act, 1985 registered at Police Station City Mandi Dabwali, District Sirsa.

2. Learned counsel for the petitioner contends that nothing has been recovered from the petitioner, who has been falsely implicated in the present case. Counsel for the petitioner further submits that the petitioner is behind the bars for the last more than 2 years and 3 months and out of 16 prosecution witnesses, only 3 witnesses have been examined so far and thus, keeping the petitioner behind the bars for an indefinite period, wherein no recovery has been effected, would be violative of Article 21 of Constitution of India particularly in the light of the fact that right to speedy

trial/justice is one of legal rights.

3. Learned State counsel has produced the custody certificate, of the petitioner today in the Court, which is taken on record. He states that the quantity recovered from the petitioner is commercial in nature and he has served only 2 years, 3 months and 12 days of imprisonment so far, therefore, the petitioner is not entitled to the concession of regular bail.

4. Considering the fact that the co-accused namely Hema Singh from whom the alleged contraband is stated to have been purchased by the petitioner, is on regular bail. However, keeping in view the custody period suffered so far by the petitioner i.e. 2 years, 3 months and 12 days added with the fact that there is no other case of any nature whatsoever, showing that the petitioner having clean antecedents and admittedly, out of 16 prosecution witnesses, only 3 witnesses have been examined which reflects that the conclusion of trial is likely to take a long time and also in view of judgments passed by the Hon'ble Apex Court in "***Dheeraj Kumar Shukla versus State of Uttar Pradesh 2022(238) AIC 928***" and "**Mohammad Muslim @ Hussain versus State NCT of Delhi in SLP No.915 of 2023**" this Court has discussed the bar envisaged under Section 37 of the NDPS Act as not an absolute bar in the light of custody period suffered and the progress of trial but can be dispensed with once there is absence of criminal antecedents against the petitioner is evident on record, the petitioner having no such criminal antecedents except the instant FIR wherein he has also suffered a custody period of 2 years, 3 months and 12 days, it is a fit case to be considered and hence the present petition can be disposed of with a direction that the petitioner be released on regular bail.

5. The petitioner is, therefore, directed to be released on regular bail on his furnishing personal and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.
6. The present petition stands allowed in the afore-said terms.
7. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

28<sup>th</sup> APRIL, 2023  
yogesh

(SANDEEP MOUDGIL)  
JUDGE

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