

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

**CRM-M-35028-2021 (O&M)
DECIDED ON: 27.03.2023**

NITYANAND @ GANDHI

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Atul Goyal, Advocate
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

CRM-8659-2023

Application is allowed as prayed for.

Annexures A1 to A-22 are taken on record with just exceptions.

CRM-M-35028-2021

This is a petition seeking regular bail in FIR No.9, dated 08.01.2021, under Sections 21, 29, 61, 85 of NDPS Act, registered at Police Station STF Phase-4, Mohali, District SAS Nagar.

Reply by way of an affidavit of Ajay Kumar, PPS, Deputy Superintendent of Police, Special Task Force, Ludhiana Range has been filed on behalf of respondent-State, which is taken on record. A copy thereof has been supplied to the counsel opposite.

Learned counsel for the petitioner contends that the reply filed by state does not disclose any satisfactory explanation for not leading any

prosecution evidence so far and the petitioner is being made to suffer. He further submits that he has already suffered incarceration of 2 years, 2 months and 14 days. Learned counsel for the petitioner also claims to have been clean antecedents as he is not involved in any other case of any offence whatsoever.

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to the custody certificate, the petitioner is behind the bars for the last 2 years, 2 months and 14 days and he is not involved in any other case whatsoever.

It would be appetite to note that in the present case, though charges were framed on 16.03.2021, but till today out of total 13 witnesses, only one witness has been examined. This Court is obvious of the fact that under Article 21, the right to life and liberty is available as well at least while considering the concession of regular bail.

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.

In the light of the aforesaid discussions, 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.

The present petition is, hereby, allowed.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

27.03.2023

Meenu

**(SANDEEP MOUDGIL)
JUDGE**

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