

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38533-2023
DECIDED ON: 11.08.2023

HARPREET SINGH ALIAS SHUNTY

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Fatehjeet Singh, Advoacate for
Mr. Arshdeep Singh Sra, Advocate for the petitioner.

Mr. P.S. Bajwa, Addl. AG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail in FIR No.272 dated 11.11.2022, registered under Section 22, 61 and 85 of NDPS Act, 1985 at Police Station Canal Colony, District Bathinda.
2. Learned counsel for the petitioner contends that recovery of contraband i.e., 10 vials alleged to have been recovered from the petitioner is non-commercial in nature. He asserts that the petitioner is in custody since 12.11.2022, wherein charges stands framed on 09.02.2023 and out of total 9 prosecution witnesses, none 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.*
3. Learned State counsel has filed the custody certificate of the petitioner,

which is taken on record. He opposes the prayer made in the instant petition stating that the petitioner is involved in three other cases out of which in one case, he has been convicted.

4. However, on a query put by this Court, learned State counsel also informs the Court that the charges stands framed on 09.02.2023, but could not controvert the fact that there are total 9 prosecution witnesses out of which none has been examined so far.

5. Considering the facts in totality that the petitioner has suffered incarceration of 9 months and 1 day and alleged recovery is non-commercial in nature. At this stage, no witness 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. 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 of concession of bail.

7. 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

8. The present petition is, hereby, allowed.
9. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

11.08.2023

Meenu

(SANDEEP MOUDGIL)
JUDGE

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