

207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49484-2021
DECIDED ON: 10th FEBRUARY, 2023

RINKU GILL

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

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

Mr. Mohit Kapoor, Addl. AG, Punjab.

SANDEEP MOUDGIL, J. (ORAL)

The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 393, dated 07.07.2021, under Section 22 of Narcotic Drugs and Psychotropic Substances Act 1985 (for short 'NDPS Act'), registered at Police Station Zirakpur, District SAS Nagar (Mohali).

Learned counsel for the petitioner submits that though admittedly the alleged recovery of contraband is commercial in nature but there is a complete violation of Section 42 of the NDPS Act, wherein an information in writing was supposed to be sent to a senior officer further in relation to Section 50 of the NDPS Act, no offer with regard to the personal search of the petitioner was given to him, as is evident from personal search memo dated 07.07.2021 (Annexure P-4).

Learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record, according to which, the petitioner is behind the bars for the last 1 year 7 months and 5 days and admittedly no other case of any nature is pending against the petitioner.

However, as far as the factum of compliance of Section 42 of the NDPS Act is concerned, the said fact has been admitted by the State in para 2 (iii) of its reply dated 11.07.2022, whereas, the reply qua the compliance of Section 50 of NDPS Act, is silent.

Considering the afore-said procedural lapse and custody undergone by the petitioner with the fact that the conclusion of trial will take sufficient long time, this Court is of the considered view that no fruitful purpose would be served by keeping the petitioner behind the bars for an indefinite period.

The petitioner is ordered to be released on regular bail subject to his furnishing personal and surety bonds to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is clarified that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

The petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

10th FEBRUARY, 2023

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