

[202] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48518-2023
Date of Decision :03.10.2023

Gurdeep Singh alias Khaba ...Petitioner

versus

State of PunjabRespondent

Coram : HON'BLE MR. JUSTICESANDEEP MOUDGIL

Present : Mr. Gurpal Singh Sandhu, Advocate for the petitioner.
Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J. (ORAL)

[1] The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for grant of regular bail to the petitioner in FIR No.0067 dated 01.07.2018, under Sections 379-B, 420, 473 of IPC, 1860 and Sections 21/22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Sections 25/27 of Arms Act, 1959, registered at Police Station Mehna, District Moga.

[2] Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case on the basis of suspicion. As per the allegations, 200 grams of intoxicating powder is alleged to have been recovered from the possession of the petitioner.

[3] Further allegation against the petitioner is that on the basis of disclosure statement of the petitioner, he got recovered one Honda Car and one black colour motorcycle. In fact, these recoveries are planted upon the petitioner. The assertion is that there is a strict non-compliance of Section 50 of the NDPS Act.

[4] Learned counsel for the petitioner submits that the co-accused of the petitioner namely Jaswinder Singh alias Sony has already been granted concession of regular bail.

[5] Learned State Counsel has filed the custody certificate of the petitioner which is taken on record. As per the custody certificate, the petitioner has undergone incarceration for a period of 02 years 04 months and 22 days and further submits that the petitioner is also involved in other cases, meaning thereby he is a habitual offender and is not having clean antecedents.

[6] Considering the aforesaid facts and circumstances, especially the fact that the challan stands presented, meaning thereby, the trial is likely to take long time and the petitioner has suffered incarceration for a period of 02 years 04 months and 22 days, which in itself is punitive in nature and no one can be punished until or unless guilt is proven beyond reasonable doubt.

[7] Looking into the totality of the facts and discussions made hereinabove, “this Court is of the firm view that no useful purpose would be served by keeping the petitioner behind the bars for uncertain period, wherein bail is a rule and jail is an exception and it would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of Constitution of India, as has been time and again discussed by this Court while realizing the judgment of the Apex Court passed in ***Dharam Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.***”

been stated by learned State counsel, 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 the concession of bail.

[9] In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

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

(SANDEEP MOUDGIL)
JUDGE

03.10.2023
'Rajneesh'

Whether speaking/ reasoned	:	Yes/No
Whether reportable	:	Yes/No