

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50532-2023
DECIDED ON: 09.11.2023

SATISH @ SATTE

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Kamal Chaudhary, Advocate
for the petitioner.

Mr. Sandeep Singh Mann, Addl. AG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail to the petitioner in FIR No.195, dated 11.08.2021, under Sections 22(c) & 29 of NDPS Act, 1985, registered at Police Station Sector 17, Faridabad.
2. Learned counsel for the petitioner contends that there is a contradictory stand taken by the Investigating Agency, though the quantity is double of commercial quantity, but with regard to Sr. No.169, it would not be a drug under the NDPS Act but under the Drug and Cosmetics Act for which the FIR has not been registered, while referring to *Ajaib Singh vs. State of Punjab, 2012 (2) R.C.R., (Criminal) 330.*
3. He asserts that challan stands presented and charges have been framed on 10.12.2021 and the trial is proceeding at slow pace and in the light of other facts it is only the petitioner's disclosure statement, he has been nominated in the instant

case. He has raised doubt on the conduct of the Investigating Agency on the ground that second supplementary statement of the petitioner was recorded on 12.08.2021 and as per his second disclosure statement, he named one person namely Prashant @ Pintu @ Dimpy, whereas in the first disclosure statement, he has not even uttered the name of the said co-accused.

4. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He asserts that the contraband recovered is of commercial in nature, though could not controvert the fact that after framing of charges on 10.12.2021, out of total 18 prosecution witnesses only 2 have been examined so far.

5. Be that as it may, having heard learned counsel for the respective parties giving a conscious thought to the factual aspects as narrated hereinabove, it is evident that the petitioner has already faced incarceration of 2 years, 2 months and 28 days, who is not involved in any other case, except one FIR No.1103 dated 05.12.2016, registered under Section 379 of IPC at Police Station Sadar Ballabgarh, Faridabad; the prosecution case is also not to be believed as a gospel truth so far at this stage, wherein trial is moving at snail's pace, as is evident from number of prosecution witnesses i.e., 2 examined so far, after framing of charges on 10.12.2021, after a lapse of almost two years by now, he cannot be allowed to be kept in custody for an indefinite period, which would 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 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***. Even otherwise, the petitioner is having clean antecedents, as he is involved only in one another case and on his disclosure statement, he has been nominated as an accused in the instant FIR without effecting

any recovery prima facie, as is evident fro the prosecution version narrated in the FIR.

6. 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.

7. The present petition is allowed in the afore-said terms.

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

09.11.2023

Meenu

(SANDEEP MOUDGIL)
JUDGE

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