

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50639-2023
DECIDED ON: 09.11.2023

RASHPAL SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gursewak Singh, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG Punjab.

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.24, dated 11.03.2023, under Section 18 of NDPS Act, 1985, registered at Police Station Arniwala, District Fazilka.
2. Learned counsel for the petitioner contends that the recovered contraband is 350 grams of opium, which falls under non-commercial quantity and also the said contraband was kept in a polythene, which was allegedly fallen out of the motorcycle of the petitioner and except that there is no incriminating material available against the petitioner, as has been asserted by the counsel for the petitioner.
3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He opposes the present bail petition on the ground that the

petitioner is involved in one another case bearing FIR No.50 dated 24.06.2022, registered under Section 15 of NDPS Act at Police Station Sadar Abohar.

4. Be that as it may, the quantity recovered is non-commercial in nature i.e., 350 grams of opium; petitioner has suffered incarceration of 8 months added with the fact that he is involved only one another case, meaning thereby he is not a habitual offender and even otherwise, this Court in various judgments has already observed that pendency of other FIRs involving the accused-petitioner cannot be a predicament to consider the case for anticipatory bail or regular bail, as the evidence of the material involved in those FIRs can be treated in those cases alone and is not material for the instant FIR.

5. In view of the aforesaid discussions made hereinabove, no useful purpose would be served by keeping the petitioner behind the bars, which is violative of right to life and liberty under Article 21 of the Constitution of India, wherein 'Bail is a Rule and Jail is an exception', he 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.

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

7. 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

09.11.2023

Meenu

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