

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

CRM-M-54640-2023

Date of Decision :09.11.2023

Rajender ...Petitioner

versus

State of HaryanaRespondent

Coram : **HON'BLE MR. JUSTICESANDEEP MOUDGIL**

Present : Mr. B.S. Mamli, 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.104, dated 25.05.2022, under Sections 20C/27-A of Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity 'the Act') registered at Police Station Jakhal, District Fatehabad.

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He further submits that the recovery of 40 kgs of *Ganja* has been planted upon the petitioner as he was the pillion rider on the motorcycle bearing No.HR23C-8453 from which the alleged recovery was effected. He further submits that there is non-compliance of Section 50, 52 and 55 of the NDPS Act. The petitioner is in custody since 25.05.2022. It is further submitted that co-accused Kalia @ Kala has already been granted the regular bail by this Court vide order dated 22.08.2023 (Annexure P-4) passed in CRM-M-39783-2023.

3. Learned State Counsel has filed the Custody Certificate of the petitioner, which is taken on record, which reflects that the petitioner has already faced incarceration of 01 year and 05 months and 10 days as on

today. He opposes the prayer made in the application stating that the

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recovery of contraband falls under commercial quantity though he could not controvert the fact that petitioner is not a habitual offender.

4. Be that as it may, considering the fact that the petitioner is having clean antecedents and admittedly he is in custody for a period of 01 year 05 months and 10 days added with the fact that out of total 18 prosecution witnesses, only 05 have been examined after framing the charges on 30.01.2023 and the co-accused has already been enlarged on regular bail by this Court, no useful purpose would be served by keeping the petitioner behind the bars for an indefinite 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 relying the judgment of the Apex Court passed in **Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.**

5. In view of the discussions made hereinabove, the petitioner is ordered 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, hereby, allowed.

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

'Rajneesh'

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