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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-63075-2023
DECIDED ON: 20.12.2023

RAJU SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Jasvir Singh Dhaliwal, 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., for grant of regular bail to the petitioner in FIR No.224, dated 07.10.2021, under Section 22 (c) and 29 of NDPS Act, 1985, registered at Police Station Canal Colony, Bathinda, District Bathinda, Punjab.

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case as no recovery has been effected from the conscious possession of the petitioner. He further submits that the other co-accused namely Binder Kaur and Baljinder Singh @ Balwinder Singh @ Vicky have been granted the concession of regular bail vide orders dated 18.12.2023 and 20.10.2023, passed in CRM-M-61891-2023 and CRM-M-52351-2023, respectively. He further submits that the mandatory procedure prescribed under Section 50 of the NDPS Act has not been followed.

3. On the other hand, learned State counsel has produced the custody certificate of the petitioner, which is taken on record, to demonstrate that he has suffered incarceration for a period of 02 years, 02 months and 06 days and submits on instructions from ASI Sukhwinder Singh that the petitioner is involved in three cases of NDPS Act, however, he is on bail in two cases and in one case, production warrant has been issued and the recovered quantity of the contraband is commercial in nature i.e., 18000 tablets of Tramadol and 5700 tablets of Alprazolam, therefore, he is not entitled for any concession of regular bail.

4. Looking into the totality of facts and circumstances and also the fact that nothing has been recovered from the possession of the petitioner; investigation stands complete; challan stands filed; out of total 14 witnesses only one has been examined till date; charges have been framed on 16.04.2022 with lapse of more than 01 year and 8 months; the petitioner has suffered incarceration for a period of 02 years, 02 months and 06 days added with the fact that other co-accused persons namely Binder Kaur and Baljinder Singh @ Balwinder Singh @ Vicky have been granted the concession of regular bail vide orders dated 18.12.2023 and 20.10.2023, passed in CRM-M-61891-2023 and CRM-M-52351-2023, respectively, therefore, no useful purpose would be served by keeping the accused behind bars for an indefinite period.

5. This Court is sanguine of the fact that according to the proposition settled by the Apex Court that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement

of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle “*bail is rule*” and “*jail is an exception*”.

6. As far as the pendency of other cases is concerned, as has 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.

7. 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.

8. In the afore-said terms, the present petition is hereby allowed.

9. 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

20.12.2023
Poonam Negi

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