

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-229-2024
DECIDED ON: 31.01.2024

SAJJAN KUMAR @ UJJALA
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sarju Puri, Advocate
for the petitioner.

Mr. Ramdeep Partap Singh, Sr. 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.111, dated 05.10.2021 (Annexure P-1), under Sections 20, 25, 29 of NDPS Act, 1985, registered at Police Station Sadar Banga, District Shaheed Bhagat Singh Nagar.
2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and no recovery has been effected from his conscious possession. He further contends that the alleged vehicle bearing Registration No.PB07-BW-5583 was driven by co-accused namely, Makhan Paswan and the present petitioner was sitting alongside him. He further submits that the co-accused namely, Makhan Paswan has been granted the concession of regular bial by this Court vide order dated 22.12.2023, passed in CRM-M-57249-2023. It has been further submitted on behalf of the petitioner that though the charges were framed on 16.02.2023, but till date only 3 prosecution witnesses have been

examined, out of total 17 witnesses; petitioner is behind the bars for the last 02 years 03 months and 22 days.

3. On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. According to the custody certificate, the petitioner is behind the bars for the last 02 years 03 months and 22 days and he is not involved in any other case of any nature whatsoever. He prays for dismissal of the present petition on the ground that the petitioner has been apprehended at the spot with the recovery of 80 kg and 250 gms of ganja, which falls within the commercial quantity. He does not dispute the fact that the co-accused of the petitioner has been granted the concession of regular bail.

4. Looking into the totality of facts and circumstances and also the fact that co-accused of the petitioner namely, Makhan Paswan has been granted the concession of regular bail by this Court; charges were framed on 16.02.2023; out of total 17 prosecution witnesses, only three have been examined till date meaning thereby the trial is moving at snail's pace; he is not involved in any other case meaning thereby he is a man of clean antecedents added with the fact that the petitioner has suffered incarceration for a period of 02 years 03 months and 22 days, therefore, no useful purpose would be served by keeping the petitioner behind the bars.

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 a rule and jail is an exception*".

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

31.01.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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