

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-407-2024
DECIDED ON: 15.02.2024

HARCHET SINGH ALIAS CHETI
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. R.V.S. Chugh, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, 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.94, dated 05.08.2022, under Sections 22, 27 of NDPS Act, 1985, registered at Police Station Boha, District Mansa (Annexure P-1).
2. Learned counsel for the petitioner submits that the alleged recovery has been planted upon the petitioner and as per the FSL report, the contraband i.e., 90 strips having 10 tablets each of *Alprasafe* is marginally over and above the commercial quantity. He further submits the petitioner is in custody since 06.08.2022, wherein trial is moving at snail's pace.
3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He prays for dismissal of the present petition on the ground that the petitioner is involved in two other cases.
4. Heard, learned counsel for respective parties.

5. Be that as it may, considering the fact that the alleged contraband is marginally over and above the commercial quantity and the petitioner has suffered incarceration of 1 year, 6 months and 12 days, wherein charges were framed on 13.01.2023 and out of total 14 prosecution witnesses, none has been examined so far, which is sufficient to infer this Court that conclusion of trial shall take sufficient time, no useful purpose would be served by keeping the petitioner behind bars for an indefinite period, which would amount 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. As far as the contention of learned State counsel with regard to pendency of other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “*Baljinder Singh alias Rock vs. State of Punjab*” decided on 02.03.2023, wherein, this Court 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 not material in instant FIR against the accused-petitioner to hold him guilty.

7. In light of the above 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. 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

15.02.2024

Meenu

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