

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

215-CRM-M-2398-2024

Date of Decision: 07.02.2024

Mohammad Imran ... Petitioner
VS.
State of Punjab ... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. PS Sekhon, Advocate for the petitioner
Mr. Sanish Girdhar, AAG Punjab

Sandeep Moudgil, J. (Oral)

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.47 dated 16.07.2022 (Annexure P-1) under Sections 22 & 27 of Narcotic Drugs and Psychotropic Substances, registered at Police Station GRP Sangrur, District Govt. Railway Police having jurisdiction at district Sangrur.

Learned counsel for the petitioner submits that as per the narration in the FIR, the same seems to be concocted and doubtful as the investigating agency, as per its own case has recorded that without any knowledge and without noticing the name of the vials, the investigating officer mentioned them as intoxicant vials which means that the police planted the case against the petitioner and during the investigation process, the dope test of the petitioner got conducted came positive and Section 27 of NDPS Act was added to enhance the severity of the offence.

On the other hand, learned State counsel has produced the custody certificate of the petitioner dated 06.02.2024, which is taken on record, to demonstrate that he has suffered incarceration for a period of 1 year 6 months and 23 days. He further argues for dismissal of regular bail in the instant petition making an effort to contend that the petitioner is a habitual offender as

he has been found involved in another NDPS case in which he is not on bail. He informed that charges in the instant case was framed on 13.01.2024 and out of total 11 witness, the examination in chief of only 2 witnesses have been conducted so far.

Since, the petitioner has already suffered custody for more than 1 year 6 months and 23 days, no recovery of intoxicant tablets was effected from his possession added with the fact that the charges were framed on 13.01.2024 and out of total 11 witnesses, 2 have been examined so far, it becomes abundantly clear that conclusion of trial will take certainly long time and in such a situation, detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgement of Apex Court in “*Dataram Singh vs. State of Uttar Pradesh and another, (2018) 3 SCC 22*”.

Therefore, taking into consideration the totality of the circumstances as also the fact that the trial is likely to take some time, therefore, no fruitful purpose will be served by keeping the petitioner behind bars.

Accordingly, this petition is allowed and the petitioner is directed to be released on regular bail on furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

07.02.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No