

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2478-2024
DECIDED ON: 23.04.2024

JASBIR SINGH ALIAS JASSA ALIAS JASVEER SINGH
.....PETITIONER

VERSUS

STATE OF HARYANA
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Manish Kumar, Advocate
for the petitioner.

Mr. Gurbir Singh Dhillon, AAG, Haryana.

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.275, dated 09.09.2023 (Annexure P-1), under Sections 22C, 29, 61, 85 of NDPS Act, 1985, registered at Police Station Kalka, District Panchkula.
2. The case set by the petitioner is that he has been nominated in the instant FIR only on the basis of disclosure statement of co-accused Amit Agarwal, from whom 1200 Lomotil tablets were recovered measuring 2.5 mg of Diphenoxylate Hydrochloride and 0.025 mg Atropine Sulphate and the total weight of said tablets is 72 grams.
3. Learned counsel for the petitioner contends that 600 tablets of Lomotil were recovered from the present petitioner measuring 2.5 mg of Diphenoxylate Hydrochloride and 0.025 mg Atropine Sulphate and the total weight of said tablets is 36 grams. He further contends that the recovery of

the contraband from the petitioner is non-commercial in nature on which much stress has been laid to seek regular bail.

4. On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He submits that the petitioner is also involved in two other cases, out of which one is under NDPS Act i.e. FIR No.248, dated 28.07.2016, under Sections 22C/61/85 of NDPS Act, Sections 18-C/18-A DC Act, 1940, registered at Police Station Pinjore, District Panchkula and FIR No.382/2020, under Section 61 of Excise Act, registered at Police Station Pinjore, District Panchkula, meaning thereby, he is a habitual offender and on that account, seeks dismissal of instant petition.

5. Be that as it may, the petitioner admittedly has been nominated only on the basis of disclosure statement of co-accused Amit Aggarwal and the recovery from the possession of the petitioner is non-commercial in nature.

6. Looking into the totality of facts and circumstances and also the fact that investigation is complete; challan stands presented on 16.02.2024 and out of total 19 prosecution witnesses, none has been examined till date; no fruitful purpose would be served by keeping the petitioner behind the bars for an indefinite period, which would tantamount to violation of principle of criminal jurisprudence i.e. "*bail is a rule and jail is an exception*", as has been held by Division Bench of this Court in "***Rajinder Singh versus State of Haryana***", 2022(2) RCR (Criminal) 85 apart from the fact that Article 21 of the Constitution of India also includes right of speedy trial and expeditious disposal of the same.

7. As far as the pendency of other cases and involvement of the petitioner in 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, while referring Article 21 of the Constitution of India, this Court has held that 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.

8. In the light of above, 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.

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

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

23.04.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No