

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3600-2024
DECIDED ON: 29.01.2024

SURAJ

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sanjeev Kumar Bawa, Advocate
for the petitioner.

Mr. H.S. Sitta, 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.103, dated 07.09.2023, under Section 22 of NDPS Act, 1985, registered at Police Station Urban Estate, Patiala.
2. Learned counsel for the petitioner while referring to the stand of the prosecution contends that the sample sent to the FSL for examination of the alleged contraband said to be 125 grams of powder is tampered by the Investigating Agency, which is stated to be sent in an envelope with a sealed impression 'AS & HSG', whereas the sample sent to the FSL attached with the present petition at Annexure P-3 shows the receipt of said envelope with the 8 seals of 'MSG' and 5 seals of AS, whereas none of the seal bears the impression HSG, which raises doubt on the story of the prosecution. He also points out that incomplete challan has been presented in haste without waiting for the outcome of FSL report and now to cover up their own story, duplicate samples have alleged to be sent for examination.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He does not controvert the aforesaid factual errors, though makes a valiant attempt to cover up the argument that it is a technical flaw which has occurred in sending the samples of the recovered contraband and, therefore, same cannot be of any advantage to the petitioner at this stage, as the report of chemical examiner is still awaited.

4. Heard, learned counsel for the respective parties and gone through the custody certificate of the petitioner, according to which the petitioner is behind the bars for the last 4 months and 20 days and not involved in any other case.

5. On merits, the story of the prosecution raises serious doubt with regard to the alleged recovery of contraband and the samples sent to the FSL for examination and on that account, incomplete challan has been presented to the Court, the petitioner cannot be kept in custody under such circumstances for an indefinite period, which would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of Constitution of India.

6. In the 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.

7. 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.

(SANDEEP MOUDGIL)
JUDGE

29.01.2024

Meenu

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