

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

219-2 CRM-M-3147-2024
DATE OF DECISION: 01.05.2024

Avenpreet Singh @ Baby ...PETITIONER

Versus

State of Punjab ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. N.S. Dandiwal, Advocate for the petitioner(s).
Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 0003, dated 17.01.2023, under Sections 22/61/85 of The Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 29 of the NDPS Act added later on) , registered at Police Station Tallewal, District Barnala (Annexure P-1).

2. Learned counsel for the petitioner contends that the petitioner was nominated as an accused on merely disclosure statement of one Damanjeet Singh who is the main accused and alleged recovery of contraband i.e. 720 tablets of Clovidol-100 SR (Tramadol Hydrochloride Tablets 100 mg) were recovered from him. The petitioner is not involved in any other case.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for the last 1 year, 3 months and 11 days, who is not involved in any other case. He seeks dismissal of the present petition

urging that the accused were three in total and were distributing the contraband among themselves carrying in transparent polythene.

4. Be that as it may, this Court is of the considered view that since the petitioner has already suffered sufficient period in custody and is not involved in any other case and recovery was not effected from the petitioner. Further, as per the principle of the criminal jurisprudence, no one should be considered as guilty till the guilt is proved beyond reasonable doubt, whereas in the instant case, trial is prolonged and likely to take long time in the light of the fact that out of 17 prosecution witnesses, none has been examined and charges were framed on 03.07.2023 and 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”.

5. 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.

6. Petition is disposed of.

7. 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

01.05.2024

anuradha

Whether speaking/reasoned Yes/No

Whether reportable Yes/No