

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6126-2024
DECIDED ON: 09.02.2024

AMAN

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Jasdeep Singh Gill, Advocate
for the petitioner.

Mr. Sanish Girdhar, AAG 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.73, dated 23.06.2022, under Section 21 of NDPS Act, 1985, registered at Police Station Cantt. Ferozepur, District Ferozepur.
2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and subsequently nominated as an accused and the recovery of 300 grams of heroin is not effected from the possession of the petitioner. He has placed reliance upon an order dated 09.01.2024 (Annexure P-5) passed by this Court in CRM-M-65202-2023 vide which the co-accused namely Raman has been granted the concession of regular bail and claims parity.
3. It is also asserted before this Court that once the petitioner came to know about his implication in the instant FIR, he made a representation immediately to the District Magistrate, Ferozepur alongwith his mobile number and

that of his brother, submitting that both of them were at their home on the date and time, when the alleged occurrence took place.

4. 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 other cases. Though, he could not controvert the fact that the petitioner is at parity with the co-accused namely Raman, who has been granted the concession of regular bail.

5. Be that as it may, considering the fact that the recovery was effected from the conscious possession of the petitioner, who is at parity with the co-accused namely Raman added with the fact that conclusion of trial shall take sufficient time, as out of total 13 prosecution witnesses only 1 has been examined, wherein the petitioner has suffered incarceration of 1 year, 7 months and 18 days, no useful purpose would be served by keeping him behind the 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 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

09.02.2024

Meenu

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