

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

217 CRM-M-6549-2024

DATE OF DECISION: 04.03.2024

DEEPAK

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gautam Kumar, Advocate for
Mr. S.S. Gill, Advocate for the petitioner(s).

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

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. 22, dated 28.01.2022, under Sections 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Lalru, District SAS Nagar, Mohali.

Learned counsel for the petitioner contends that the petitioner has apprehended on suspicion on 28.01.2022 and thereafter, released on interim bail on 23.05.2022 subject to receipt of the report of the Chemical examiner, thereafter, he surrendered. Since he is in custody, the recovery is asserted to be a chance recovery in the instant case. The investigation is complete, challan was presented to the Court on 25.7.2022 and therefore, he seeks concession of regular bail as no custodial interrogation is required.

Learned State Counsel has produced the custody certificate

which is taken on record. As per the same, the petitioner is involved in

another FIR No. 275 dated 30.08.2023 under Section 52-A of the Prisons Act, 1894, P.S. Tripuri and recovery is of commercial quantity of contraband that is by way of 5940 tablets of Lomotil and 1140 tablets of Alprazolam of which tablets Lomotil adding ingredients of 143.78 gms Diphenoxylate Hydrochloride. He has informed the Court that charges stands framed before the Court on 26.10.2022 and total 12 witnesses have been cited by the prosecution but none has been examined completely so far.

Considering the aforesaid facts wherein charges have already been framed, out of 12 witnesses none has been examined completely, meaning thereby that the trial is moving at snail's pace and will take considerable time to conclude. The petitioner cannot be put 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". It is the basic principle of criminal jurisprudence that until or unless guilt is proved, no body can be punished. 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.

In light of the 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.

The present petition is, hereby, allowed.

(SANDEEP MOUDGIL)
JUDGE

04.03.2024
anuradha

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