

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8739-2024
DECIDED ON: 22.02.2024

TRAORE AHMED

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ishan Khetarpal, Advocate
for the petitioner.

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.727, dated 24.12.2018, under Section 21(C) of NDPS Act, 1985, registered at Police Station DLF-II, District Gurugram.
2. Learned counsel for the petitioner submits that the petitioner is behind bars for the last 5 years, who is a foreigner and recovery of 3 kg 200, grams of heroin was effected from his possession and also relies upon the guidelines laid down by the Supreme Court in the case of *Supreme Court Legal Aid Committee representing undertrial prisoners vs. Union of India, 1994 (6) SCC 731*, wherein certain guidelines have been issued for considering the release of prisoners particularly involved in NDPS cases.
3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He raises a concern about the credibility of the petitioner, if released on bail i.e., he may abscond from the country, since he is a foreign

resident of Nigeria, though presently having the address as DLF Phase-II, Gurgram.

4. Looking into the totality of facts, the petitioner has suffered the sufficient period of custody i.e., 5 years, 1 months and 26 days and as far as antecedents in India is concerned, he admittedly is not involved in any other case. It is a fact to be considered that charges were framed in the matter on 20.05.2019 and out of total 12 prosecution witnesses, 8 have been examined so far, which is sufficient to infer this Court that conclusion of trial will considerable take long time, no useful purpose would be served by keeping the petitioner behind bars, 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 a rule and jail is an exception*”, as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.***

5. In the light of above, the present petition is allowed and the petitioner is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate particularly with a rider that he shall surrender his passport before the trial Court at the time of furnishing bail bonds and local surety.

22.02.2024

Meenu

(SANDEEP MOUDGIL)
JUDGE

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