

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7608-2024
DECIDED ON: 15.03.2024

JASPAL SINGH @ KEEMA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. L.S. Sekhon, Advocate and
Ms. Nidhi, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked for fourth time under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.85, dated 02.07.2022 (Annexure P-1), under Sections 22 & 29 of the NDPS Act, 1985, registered at Police Station Sadar Ahmedgarh, District Malerkotla (earlier District Sangrur).
2. Learned counsel for the petitioner vehemently argues that the alleged recovery of 500 tablets, has been fastened upon the present petitioner though having no role in the said contraband, which has been alleged to be carried in a transparent polythene bag by him. He further submits that it is beyond any stretch of understanding that why a person would use transparent polythene bag and carry to smuggle any contraband whatsoever, therefore, the case of the prosecution itself is highly doubtful apart from that, plea of medical ailment of the petitioner has also been raised

before this Court referring to medical prescriptions who is undergoing treatment of tuberculosis and has lost his weight and his health is deteriorating day by day and on that account it would be appetite that he gets provided care at home.

3. Today, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. Copy thereof has been supplied to the learned counsel for the petitioner.

4. Learned State counsel has also brought on record a report from the Medical Officer, District Jail Sangrur dated 11.03.2024, which also demonstrates that the petitioner is being treated for tuberculosis as has been averred in the instant petition and for that purpose, he is being kept in isolated ward.

5. This Court on two accounts considering the nature of ailment being faced by the petitioner i.e. tuberculosis is a communicable disease and other intimates in the jail are also at risk though an effort is being made to avoid such spread by keeping him in isolated ward but still the atmosphere in the jail is well known and it would not be disputed that the jail premises may not be a conducive environment for the petitioner also to atleast retain his health seeing his condition today, who is otherwise reported to be loosing weight day by day added with the fact that the petitioner has suffered incarceration for a period of 01 year, 08 months and 15 days, who is not involved in any other case sufficiently indicating that he is not a habitual offender.

6. Apart from that the charges were framed in the instant case on 09.09.2022, wherein out of total 17 prosecution witnesses, only 01 witness

has been examined, which is suffice for this Court to infer that the conclusion of trial will take a long time.

7. In the light of aforesaid discussions and having gone through the record with the assistance of learned counsel for the petitioner, this Court is obvious of the fact that the petitioner cannot be detained behind the bars for an indefinite period, which would tantamount to violation of principle of criminal jurisprudence i.e. “*bail is a rule and jail is an exception*”, as has been held by Division Bench of this Court in ***Rajinder Singh versus State of Haryana; 2022(2) RCR (Criminal) 85*** apart from the fact that Article 21 of the Constitution of India also includes right of speedy trial and expeditious disposal of the same, as has been laid down in “***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***”.

8. In the light of 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.

9. In the afore-said terms, the present petition is hereby allowed.

10. 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

15.03.2024
Poonam Negi

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No