

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6937-2024
DECIDED ON: 15.02.2024

MALKIT SINGH @ MALHI

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Baltej Singh Sidhu, Sr. Advocate with
Mr. Chandan Singh, Mr. Robin Singh Bhullar and
Mr. Jashandeep Singh, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG 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.64, dated 04.09.2023, under Section 21 of NDPS Act, 1985 (Section 25 of Arms Act and Section 29 of NDPS Act added later on), registered at Police Station Singh Bhagwantpur, District Rupnagar.
2. Learned counsel for the petitioner submits that the petitioner was nominated as an accused on the basis of disclosure statement suffered by co-accused persons namely Sandeep Singh @ Sandy and Maninder Singh @ Mani, who have been granted the concession of bail vide orders dated 06.10.2023 and 04.11.2023 (Annexures P-5 & P-6 respectively) passed by the trial Court. He further submits that the alleged recovery i.e., 170 grams of heroin is non-commercial in nature.

3. 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 one another case, though, he could not controvert the fact that co-accused persons have already been granted the concession of bail by the trial Court.

4. Heard, learned counsel for the respective parties.

5. Be that as it may, considering the fact that the alleged recovery is non-commercial in nature and co-accused persons have already been granted the concession of bail by the trial Court added with the fact that conclusion of trial will take considerable time, as after framing of charges on 16.12.2023, out of total 15 prosecution witnesses, none has been examined so far, no useful purpose would be served by keeping the petitioner behind 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 a 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.

15.02.2024

Meenu

(SANDEEP MOUDGIL)
JUDGE

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