

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7468-2024
DECIDED ON: 13.03.2024

BUNTY @ DHANI RAM

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. A.P. Kaushal, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for grant of regular bail to the petitioner in case FIR No. 121, dated 29.08.2022, under Section 22 of NDPS Act, 1985, registered at Police Station Phase-8, Mohali.
2. Learned counsel for the petitioner has contended that the case of the prosecution is highly doubtful, in the light of the fact that contraband alleged to have recovered from right hand of the petitioner i.e. 900 intoxicant tablets bearing batch No. C-220509 has not been sent to Forensic Science Laboratory (FSL) for examination but the tablets bearing batch no. C-222509 were sent to FSL for examination, as evident from FSL report (Annexure P-5). Hence, no role could be attributed to the petitioner on the basis of FSL report.
3. On the other hand, learned State counsel has produced the custody certificate of the petitioner, which is taken on record. He prays for dismissal of

the present petition stating that the petitioner is also involved in another case of similar nature i.e. FIR No. 284, dated 29.08.2022, under Section 22 of NDPS Act, 1985, registered at Police Station Phase-8, Mohali in which he is not on bail.

4. Be that as it may, in the light of the custody period undergone by the petitioner i.e. 1 year 6 months and 13 days, as of now added with the fact after framing of charges on 22.02.2023, out of total 12 prosecution witnesses none has been examined so far, which is sufficient for this Court to infer that the trial is moving at snail's pace, this Court is of the considered view that no useful purpose would be served by keeping the petitioner behind bars for an indefinite period.

5. This Court is sanguine of the fact that according to the proposition settled by the Apex Court that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts 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 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.

7. In view of the aforesaid 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. However, it is made clear that nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

13.03.2024
Sham

(SANDEEP MOUDGIL)
JUDGE

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