

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9451-2024
DECIDED ON: 28.02.2024

JOGA SINGH
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Jaspreet Kaur, 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.56, dated 12.12.2022, under Section 15 of NDPS Act, 1985, registered at Police Station Nangal Bhoor, District Pathankot.
2. Learned counsel for the petitioner contends that the alleged recovery i.e. 30 KG of Poppy Husk, which is non-commercial in nature has been effected from the dicky of the car and the said car does not belong to the present petitioner. He submits that petitioner is in custody since 14.12.2022.
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 urging that the petitioner is a habitual offender, who is involved in other cases also.
4. Heard, learned counsel for respective parties.
5. The alleged recovered contraband is non-commercial in nature; recovery is not from the conscious possession of the petitioner, as the same has been

effected from the dicky of the car, which does not belong to him; petitioner has already suffered incarceration of 1 year, 2 months and 13 days. As far as the contention of learned State counsel with regard to involvement of the petitioner in the other cases is concerned, he has already completed the sentence in two cases bearing FIR No.195 dated 10.08.2022, under Section 15 of NDPS Act, registered at Police Station Shahkot and FIR No.122 dated 20.04.2023, under Section 15 of NDPS Act, registered at Police Station Nokodar and in FIR No.218 dated 21.12.2021, he has already undergone during the trial period and in one case, he is on bail added with the fact that material witness stands examined.

6. In the light of above, no useful purpose would be served by keeping the petitioner behind bars for an uncertain 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*”, 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.***

7. Hence, 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.

(SANDEEP MOUDGIL)
JUDGE

28.02.2024

Meenu

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No