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2024:PHHC:029802

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9987-2024
DECIDED ON:01.03.2024

POVINDER RAJ

.....PETITIONER

VERSUS

STATE OF UT CHANDIGARH

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Angel Sharma, Advocate
for the petitioner.

Mr. Manish Bansal, PP, UT Chandigarh.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked third time for the grant of regular bail to the petitioner in case FIR No. 166, dated 26.06.2021, under Section 20 NDPS Act, 1985, registered at Police Station Sector 39, Chandigarh.
2. Learned counsel for the petitioner has contended that there is a recovery of 2 kg charas from the possession of the petitioner, who has suffered incarceration for a period of 2 years 8 months and 4 days and in the light of various judicial pronouncements of this Court, the petitioner cannot be detained behind bars for an indefinite period and seeks the concession of regular bail.
3. Custody certificate filed on behalf of petitioner is taken on record. Learned counsel for the respondent-UT Chandigarh submits that the trial is at the fag end, as out of total 11 prosecution witnesses only four have been examined and

nine have been given up. The said very fact has been controverted by the counsel for the petitioner stating that four witnesses have been given up and in support thereof, he has placed on record the zimni orders w.e.f 01.10.2021 to 16.02.2024 (Annexure P-2).

4. In the light of above, it is apparent that the trial is at the fag end and the petitioner has suffered reasonable period of incarceration i.e. 2 years, 8 months and 4 days, who is not involved in any other case of any nature whatsoever meaning thereby, he is not a habitual offender.

5. As far as the argument of the petitioner regarding staying inside for an indefinite period, the same is well established as per the law laid by the Apex Court rendered in the case of “*Dataram Singh vs. State of Uttar Pradesh & Anr.*” **2018(2) R.C.R. (Criminal) 131** wherein, it is held that “*Bail is rule and Jail is an exception*”.

6. In view of the 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.

7. The present petition is, hereby, allowed.

8. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

01.03.2024

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(SANDEEP MOUDGIL)
JUDGE

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