

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

204 CRM-M-10561-2022

Date of decision: 10.05.2024

Rajinder singh @ Mithu Ganja @ Navraj @ Randeep Singh ... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. APS Sandhu, Advocate for the petitioner

Mr. Jaspal Singh Guru, AAG Punjab

Sandeep Moudgil, J.

The petitioner seeks regular bail in case FIR No.89 dated 16.05.2020 under Section 22 of NDPS Act and Sections 188/269 IPC and Section 3 of Epidemic Diseases Act (Sections 21, 27-A, 29 & 31 of NDPS Act added later on), registered at Police Station Kotwali, Kapurthala.

Learned counsel for the petitioner contends that during interrogation, co-accused Nekdeep Kumar disclosed the names of other persons alleged involved in drug trade in which he allegedly took the name of the present petitioner. He submits that it is an admitted position that anything recovered by the police, if any, was from co-accused persons disclosed by aforesaid Nekdeep and that nothing was recovered from the possession of the petitioner, however, he was arrested on 27.01.2021. It is vehemently urged that even as per challan, there is no evidence against the petitioner apart from the disclosure statement of co-accused which, in fact, has no evidentiary value in the eyes of law.

Learned State counsel has produced custody certificate dated 09.05.2024, which is taken on record. According to the said custody certificate, the petitioner has undergone 3 years 3 months 9 days of custody so far. He

opposed the concession of bail to the petitioner highlighting that he has been found involved in as many as 6 other cases out of which, he has earned acquittal in one case and as such he is not entitled to be released on regular bail.

Learned State counsel, on the basis of status report dated 09.10.2023 filed by the DSP, Detective Kapurthala, submits that there are total 22 accused in the present case, out of which 12 accused persons are yet to be arrested. It is further averred that out of total 75 prosecution witnesses, only 6 PWs have been examined as on 09.10.2023.

Heard learned counsel for the parties and gone through the record.

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. That apart, challan in the present case has been filed; investigation is complete and charges are yet to be framed and out of 75 PWs, only 6 have been examined and for that reason the petitioner cannot be put behind the bars for an indefinite period particularly in the light of the fact where the petitioner has been arrested only on the basis of disclosure

statement of co-accused and moreover, there is no recovery effected by the police from the person of the petitioner.

Taking into consideration the totality of the circumstances particularly the fact that trial in the present case is moving at a snail’s pace inasmuch as out of total 75 PWs, only 6 PWs have been examined so far and in that eventuality, it is abundantly clear that it will take certainly long time to conclude and detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgement of Apex Court in “*Dataram Singh vs. State of Uttar Pradesh and another*;; (2018) 3 SCC 22”.

Accordingly, the present petition is allowed and 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.

10.05.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No