

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11375-2024
DECIDED ON: 11.03.2024

SANDEEP KUMAR @ SANDEEP KUMAR BUDANIA
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. P.S. Sekhon, 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. for grant of regular bail to the petitioner in FIR No.07, dated 31.01.2021 (Annexure P-1), under Sections 22 and 29 of the NDPS Act, 1985, registered at Police Station Bhikhiwind, District Tarn Taran.
2. Learned counsel for the petitioner contends that the Investigating officer stopped the alleged vehicle on the basis of suspicion and thereafter, he called the DSP after recording the non-consent statement and after that the entire investigation was conducted by himself. He has also contended that the alleged recovery of contraband has been fastened upon the petitioner despite nothing was recovered from his conscious possession, who is otherwise supplying red chillies in the wholesale market in Amritsar and Tarn Taran. He further asserts that as per the recovery memo and the ruqa the police had not recorded the batch number of the tablets, date of

manufacturing, date of expiry, only Marka HTN 2101, Marka HTN 2106 and HTN 110 were allegedly mentioned but from the reading of the report of chemical examiner, no such tablets were received in the office. It has been contended on behalf of the petitioner that he was neither the owner of the alleged vehicle nor the driver of the same as he was merely sitting on rear seat of the vehicle.

3. Learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition urging that he is involved in another case bearing FIR No.76, dated 03.07.2021, under Section 22/61/85 of NDPS Act, registered at Police Station Bhikhiwind.

4. In view of the discussions made hereinabove and considering the custody period i.e. 03 years, 01 month and 05 days, for which the petitioner has suffered incarceration and the fact that after framing of charges on 15.12.2021, out of 16 witnesses, none has been examined so far, meaning thereby the conclusion of the trial will take a long time.

5. This Court is obvious of the fact that the petitioner cannot be detained behind the bars for an indefinite period, which would tantamount to violation of principle of criminal jurisprudence i.e. *“bail is a rule and jail is an exception”*, as has been held by Division Bench of this Court in ***Rajinder Singh versus State of Haryana; 2022(2) RCR (Criminal) 85*** apart from the fact that Article 21 of the Constitution of India also includes right of speedy trial and expeditious disposal of the same.

6. In the light of above, 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. In the afore-said terms, 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.

11.03.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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