

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

211

CRM-M-14035 of 2024
Date of Decision: 22.03.2024

Gelo Kaur

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Kanisth Ganeriwala, Advocate for the petitioner.
Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

This is a petition seeking regular bail to the petitioner in FIR No.02, dated 04.01.2024, under Sections 21, 22 and 29 of the NDPS Act, 1985, registered at Police Station Barnala, District Barnala.

Learned counsel for the petitioner submits that the petitioner has been nominated on the basis of disclosure statement suffered by co-accused namely Pardeep Singh and Seema Rani while in police custody. It is further submitted that Section 37 of the NDPS Act is not attracted since the recovery of contraband effected from the petitioner is non-commercial.

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He prays for dismissal of the present petition on the ground that the petitioner is habitual offender and he is involved in three other cases of similar nature.

Faced with the situation, learned counsel for the petitioner has controverted the aforesaid fact stating that in FIR No.130 dated 24.05.2014, the petitioner stands convicted vide order dated 08.09.2016, in FIR No.145 dated 18.08.2019, the petitioner stands acquitted vide order dated 11.04.2022 and in

FIR No.56 dated 23.05.2021, he is on bail.

Be that as it may, considering the recovery effected from the petitioner i.e. 100 tablets of Alprasafe 0.5 which is non-commercial quantity added with the fact that the investigation is still going on as challan has not been presented so far, nothing is to be recovered from the possession of the petitioner, this Court is of the view that the conclusion of trial shall take considerable time, no useful purpose would be served by keeping the petitioner behind the bars for an indefinite period.

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 view of the 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.

In the aforesaid terms, the present petition is, hereby, allowed.

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

22.03.2024

D.Bansal

(SANDEEP MOUDGIL)
JUDGE

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