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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-14157-2024
DATE OF DECISION: 02.07.2024**

LALIT **...PETITIONER**

Versus

STATE OF HARYANA **... RESPONDENT**

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Munish Behl, Advocate for the petitioner(s).

Mr. Chetan Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 0285, dated 20.05.2022, under Sections 42 of Prisons Act, 1894 and Section 21-61-85 of The Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Baldev Nagar, District Ambala.

2. Learned counsel for the petitioner contends that it was false implication by the jail staff when the petitioner returned back to jail after completion of his furlough while serving life imprisonment in an FIR No. 54 dated 06.04.2012 under Sections 120-B read with Section 302/449/392/34 registered at P.S. Julana, Jind. The alleged recovery of 8.31 grams of suspicious brown colour powder was shown to have been recovered at the time of search of the petitioner conducted by Warder Balwinder Belt No. 527.



3. It has been further argued by counsel for the petitioner that story of the prosecution is liable to be disbelieved on the ground that at the time when the convict is surrendering himself before the jail authorities after furlough as per law, cannot be expected to take such a risk by keeping 8.31 grams of suspicious brown colour powder adjacent to the chain/zip of the jean pant/trouser.

4. Learned State Counsel on the other hand has relied upon the FSL report stating that the said powder turned out to be Heroin. He submits that in the manner in which the petitioner was carrying the said contraband does not deserve concession of bail.

5. Be that as it may, it is a matter of record, now the petitioner has been granted the concession of bail vide order dated 11.03.2024 in FIR No. 54 dated 06.04.2012 in which he is serving life imprisonment but he could not be released for pendency of the instant FIR. Now, in the instant case, charges have been framed on 19.12.2023 wherein 15 PWs have been cited by the prosecution but none has been examined so far. This very fact itself is sufficient to infer that trial will take long time and the petitioner has already served 2 years, 1 month and 8 days including remission as total sentence and 1 year, 9 months and 17 days during conviction in other cases.

6. Hyper technical, if the period of sentence is deducted which is being served in the other FIRs as life convict then in the instant case the undertrial period served by the petitioner would come to 3 months and 20 days as has been argued by the State Counsel.



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However, this Court is not convinced by the submission made by State Counsel that the life convict in FIR No. 54 dated 06.04.2012 and in the instant FIR is convicted in all probabilities his sentence might run concurrently with the life sentence already awarded in other case.

7. In light of the above, custody period already suffered by the petitioner as under trial has been rightly reflected in the custody certificate in column No. 7 of item No. 2 i.e. 2 years, 1 month and 8 days.

8. Without adverting to the merits of the case and the veracity of allegations, the petitioner having been served in jail wherein trial is not yet commenced after framing of charges for the last seven months the petitioner cannot be detained 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”.

9. In addition to that, a Division Bench of this High Court in ***Rajender Singh vs. State of Haryana***, 2022(2) R.C.R. (Criminal) 85 has held that a right under Article 21 of the Constitution of India includes right to speedy trial and expeditious disposal which is also in public interest primarily showing concern on a following view point.

(a) the period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to



unnecessary or unduly long incarceration prior to his conviction;
(b) the worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and
(c) undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of disappearance or non-availability of witnesses or otherwise.

10. In view of the aforesaid 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.
11. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.
12. Petition is allowed in above terms.

(SANDEEP MOUDGIL)
JUDGE

02.07.2024
anuradha

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