

CRM-M-14994-2024 (O&M)
DATE OF DECISION: 23.05.2024

Versus

STATE OF PUNJAB ... RESPONDENT

Present: Mohd. Jameel, Advocate for the petitioner(s).
Mr. J.S. Rattu, DAG, Punjab.

CRM-19286-2024

This application has been filed for placing on record final report under Section 173 Cr.P.C. dated 10.11.2022 as Annexure P-5.

For the reasons recorded in the application, the same is allowed and Annexure P-5 is taken on record.

Main case

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. 32, dated 06.08.2022, under Sections 22 of The Narcotic Drugs and Psychotropic Substances Act, 1985 (Later on added 29 of the NDPS Act) registered at Police Station Thulliwal, District Barnala.
2. Learned counsel for the petitioner contends that the petitioner was nominated on the basis of disclosure statement made by main accused Karamjit Singh. The petitioner has been in custody since



CRM-M-14994-2024

-2-

02.09.2022 and he was not named in the FIR originally and nothing has been recovered from him. Learned counsel for the petitioner further points out that out of total 27 witnesses, only 7 have been examined.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for the last 1 year, 8 months and 17 days. He has opposed the prayer made in the present petition stating that the petitioner was involved in one more case also. Facing with this, learned counsel for the petitioner submits that in that case, the petitioner was convicted for 20 days and with a fine of Rs.5000/-.

4. Be that as it may, having heard learned counsel for the respective parties, this Court is of the considered view that since the petitioner has already suffered sufficient period in custody and as per the principle of the criminal jurisprudence, no one should be considered as guilty till the guilt is proved beyond reasonable doubt, whereas in the instant case, charges were framed on 13.03.2023 and out of total 27 PWs only 7 PWs have been examined meaning thereby, trial is prolonged and likely to take long time 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**”.

**CRM-M-14994-2024****-3-**

5. 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 land the petitioner in a situation of denial of the concession of bail.

6. 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.

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

8. Petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

23.05.2024

<i>anuradha</i>	<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
	<i>Whether reportable</i>	<i>Yes/No</i>