

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19386-2024
DECIDED ON:29.04.2024

PARDEEP SHARMA @ MANAV

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gaurav Kalsi, 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., seeking regular bail to the petitioner in FIR No.92, dated 07.10.2022, under Section 15 of NDPS Act, 1985, registered at Police Station Shahpur Kandi, District Pathankot.
2. Learned counsel for the petitioner contends that the alleged recovery of 60 Kg *poppy husk* was effected from boot of the car. It is further contended that no independent witness has joined the police party at the time of the alleged recovery and all the witnesses are police personnel only, which clearly shows that the investigating agency has failed to comply with the mandatory provisions of NDPS Act.
3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to the custody certificate, the petitioner is behind the bars for the last 1 year, 6 months and 19 days. He prays for dismissal of

the instant petition urging that though the car from which the alleged recovery was effected belongs to the petitioner. Though, he could not controvert the fact that the co-accused namely Varinder Kumar @ Mannu who was sitting on the rear seat of the car has already been granted the concession of bail by this Court vide order dated 29.01.2024 passed in CRM-M-14128-2023 (Annexure P-1).

4. Heard, learned counsel for the respective parties.

5. Be that as it may, considering the fact that the recovery was not effected from the conscious possession of the petitioner added with the fact that after framing of charges on 17.04.2023, out of total 13 prosecution witnesses, only 3 has been examined, which shows that trial will certainly take long time, no useful purpose would be served by keeping the petitioner behind the bars for an indefinite period, which would also violate the principle of right to speedy trial and expeditious disposal as enshrined under Article 21 of Constitution of India.

6. In the light of the above 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. 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.

(SANDEEP MOUDGIL)
JUDGE

29.04.2024

Sham

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