

**2024:PHHC:061494**

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

**212 CRM-M-21216-2024**

**DATE OF DECISION: 03.05.2024**

**JOBAN SINGH**

**...PETITIONER**

**Versus**

**STATE OF PUNJAB**

**... RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr.Manish Prabhker, Advocate for the petitioner(s).

Mr. Rajiv Verma, DAG, Punjab.

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**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. 0041, dated 23.02.2024, under Sections 21/27-A/61/85 of The Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Jandiala.

2. Learned counsel for the petitioner contends that the petitioner has been in custody since 23.02.2024. The alleged recovery of Heroin is 40 grams which is of non-commercial in nature. He is not involved in any other case.

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 2 months and 6 days, who is not involved in any other case.

4. Having heard learned counsel for the respective parties, this

Court is of the considered view that no recovery is to be made from the

petitioner, he is not a habitual offender and is in custody for 2 months and 6 days 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, 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”.

5. 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.

6. 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

03.05.2024  
*anuradha*

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