

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21714-2024
DECIDED ON: 13.05.2024

VINOD @ NODI

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.426, dated 14.08.2022 (Annexure P-1), under Sections 20-C and 27-A of NDPS Act, 1985, registered at Police Station Narnaund, District Hisar.
2. Learned counsel for the petitioner contends that the petitioner was not initially named in the FIR but was subsequently roped in the instant FIR only on the basis of disclosure statement of co-accused Ram Lakhan @ Lakhan. He further submits that co-accused persons namely Krishan Kumar, from whom the recovery has been effected and Ram Lakhan @ Lakhan have been granted the concession of regular bail vide orders dated 18.01.2024 and 03.04.2024 passed in CRM-M-48274-2023 & CRM-M-736-2024 respectively. He further contends that nothing has been recovered from the possession of the present petitioner.

3. On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He does not controvert the above said fact that co-accused persons namely Krishan Kumar and Ram Lakhan @ Lakhan have been granted the concession of regular bail by this Court. He seeks dismissal of the instant petition urging that the petitioner is involved in four other cases, meaning thereby, he is a habitual offender.

4. Looking into the totality of facts and circumstances and considering the custody period i.e. 01 year, 02 months and 08 days, for which the petitioner has suffered incarceration added with the fact that charges have been framed on 03.10.2023 and out of total 28 prosecution witnesses, only nine have been examined so far, meaning thereby, the conclusion of trial will take a long time.

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 concession of bail.

6. In the light of above facts, this Court is sanguine of the fact that according to the proposition settled by the Apex Court in *Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131*, that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle “*bail is a rule*” and “*jail is an exception*”.

7. Therefore, 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.

8. In the afore-said terms, the present petition is hereby allowed.

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

13.05.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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