

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22922-2024
DECIDED ON: 13.05.2024

BITTU SINGH ALIAS SUKHA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Prateek Pandit, 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. for grant of regular bail to the petitioner in FIR No.261, dated 01.10.2022, under Sections 21, 22, 29 of NDPS Act, 1985, registered at Police Station Sultanpur Lodhi, District Kapurthala.
2. Learned counsel for the petitioner contends that as per the prosecution story, 1000 loose intoxicant tablets and 20 grams of heroin has been recovered from the possession of the present petitioner. He further contends that the mandatory provisions of Section 50 of NDPS Act have not been complied with.
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 seeks dismissal of the instant petition urging that the petitioner is

involved in four other cases, wherein he is not on bail as is evident from custody certificate, meaning thereby he is a habitual offender.

4. In counter to the said assertion, learned counsel for the petitioner referred to the orders passed by the trial Court as well as by this Court at Annexures P-2 to P-5 to support his argument that the custody certificate is actually incorrect and the petitioner is on bail in all those cases.

5. Be that as it may, having gone through the submissions made by the respective parties and considering the custody period i.e. 01 year, 07 months and 11 days, for which the petitioner has suffered incarceration added with the fact that mandatory provisions of Section 50 of NDPS Act have not been complied with and the fact that conclusion of the trial will take a long time for which the petitioner cannot be detained behind the bars for an indefinite period.

6. 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.

7. 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*”.

8. 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.

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

10. 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

13.05.2024
Poonam Negi

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