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

CRM-M-24590-2024

DATE OF DECISION: 21.05.2024

HARPREET SINGH @ RAJU

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.KS Dhillon, Advocate for the petitioner(s).

Mr. J.S. Rattu, DAG, Punjab.

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. 0064, dated 11.07.2023, under Sections 22/29 of The Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Garhdiwala, District Hoshiarpur.

2. Learned counsel for the petitioner contends that the alleged recovery made is 100 grams of Heroin and 13 injections consisting of Buprenorphine Hydrochloride which is non-commercial in nature. He further asserts that the petitioner is behind the bars for more than 10 months and is not involved in any other case.

3. Learned State counsel has filed the custody certificate of the petitioner and FSL report which is taken on record. Copy of the same is supplied to the learned counsel for the petitioner. According to



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which, the petitioner is behind bars for last 10 months and 7 days who is not involved in any other case.

4. Keeping in view the facts that the FSL report corroborates the assertion made by counsel for the petitioner that contraband recovered is non-commercial in nature wherein the petitioner has suffered incarceration of more than 10 months and is not involved in any other case, meaning thereby he is not a habitual offender 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 in the light of the fact that out of 13 prosecution witnesses, none has been examined since framing of charges on 29.02.2024 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" and keeping in the petitioner behind the bars further would be against the dictum passed in ***State of Kerala vs. Raneef***, 2011(1) RCR Criminal 381 by the Apex Court, where in paragraph No.6 it was held as under :-

'6. From the perusal of the conclusion arrived at by this court in Vijaysingh Chandubha Jadeja's case, it appears that the requirement under section 50 of the Narcotics Act and Psychotropic Substances Act is not complied with by merely informing the accused of his option to be searched either in the presence of a Gazetted Officer or



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before a Magistrate. The requirement continues even after that and it is required that the accused person is actually brought before the Gazetted Officer or the Magistrate and in para 32 the Constitutional bench made it clear that in order to impart authenticity, transparency and credit worthiness to the entire proceedings, an endeavour should be made by the prosecuting agency to produce the suspect before the nearest Magistrate.'

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.
7. The petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

21.05.2024
anuradha

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