

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23764-2024
DECIDED ON: 17.05.2024

SURENDER SINGH ALIAS SINDER
.....PETITIONER

VERSUS

STATE OF HARYANA
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Parminder Singh Sekhon, Advocate and
Mr. Rajdeep Singh Gill, 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.371, dated 21.11.2023 (Annexure P-1), under Sections 15-C, 18-C, 27-A, 29 of the NDPS Act, 1985 and Section 201 IPC, registered at Police Station Sadar Kaithal, District Kaithal.
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 Manish Kumar, who was named by the main accused Palwinder Singh. He further contends that nothing has been recovered from the possession of the petitioner. It has been asserted on behalf of the petitioner that apart from above, there is no other incriminating material to connect him with the alleged contraband.

3. On the other hand, learned State counsel has produced the custody certificate today in Court, which is taken on record. He opposes the grant of regular bail to the petitioner urging that in the disclosure statement of co-accused Manish Kumar, it has come against the present petitioner in clear words that he was to purchase the contraband being carried by the main accused i.e. 480 kg of Doda Post and 1020 kg of poppy husk and the petitioner is involved in one more case, meaning thereby, he is a habitual offender.

4. Be that as it may, considering the custody period i.e. 04 months and 14 days for which the petitioner has suffered incarceration and the fact that nothing has been recovered from the possession of the petitioner added with the fact that the petitioner is only a speculative purchaser and has been nominated as an accused only on the basis of disclosure statement of co-accused Manish Kumar.

5. In the instant case, investigation is complete, challan stands presented on 16.05.2024 wherein charges are yet to be framed and total 29 prosecution witnesses have been cited by the prosecution, meaning thereby, the conclusion of the trial will take long time for which the petitioner cannot be detained behind the bars.

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.

17.05.2024

Poonam Negi

**(SANDEEP MOUDGIL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No