



CRM-M-25228 of 2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-25228 of 2024

Date of Decision: 24.05.2024

Prabjit Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rishi Pal Chaudhary, Advocate
for the petitioner.

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

SANDEEP MOUDGIL, J (ORAL)

This is a petition seeking regular bail to the petitioner in FIR No.06, dated 07.03.2022, under Sections 21, 25 and 29 of the NDPS Act, 1985, registered at Police Station SSOC, District Amritsar.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case and he has been nominated on the basis of disclosure statements made by co-accused, namely, Charanjit Singh and Balbir Singh. He further submits that the petitioner has not apprehended at the spot who was in fact in custody since even on the date as alleged in the FIR *qua* the said recovery of contraband from the other two co-accused persons. The petitioner has been added in the list of accused only on account of total false implication to make his record as more grievous to show that he did not get bail in other cases as well.

Learned State counsel, on the other hand, has produced the copy



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of the custody certificate, which is taken on record and he prays for dismissal of the instant petition on the ground that the petitioner is involved in two other cases under NDPS Act meaning thereby he is a habitual offender. He further submits that now the trial is for defence evidence and is likely to conclude shortly.

Be that as it may, having gone through the custody certificate, the petitioner has suffered incarceration of 02 years, 02 months and 13 days and considering the fact that the petitioner was not arrested at the spot and was actually in custody when the alleged recovery of contraband was effected from the other co-accused persons and this fact has also not been disputed by learned State counsel and nominated as an accused on the disclosure statements made by above said two co-accused and even thereafter during investigation, nothing incriminating material could be recovery from him, no useful purpose would be served by keeping the petitioner behind the bars for uncertain period, wherein bail is a rule and jail is an exception and it would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of Constitution of India, as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.***

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

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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 view of the above, 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.

The present petition is, hereby, allowed.

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

24.05.2024*D.Bansal***(SANDEEP MOUDGIL)
JUDGE**

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