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

**CRM-M-24436-2024 (O&M)
DATE OF DECISION: 20.05.2024**

PARGAT SINGH ALIAS GORI ...PETITIONERS

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Hitesh Verma, Advocate for the petitioner(s).
 Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

CRM-21326-2024

This application has been filed for exemption from filing original/certified/legible/true typed copies of annexures.

For the reasons recorded in the application, the same is allowed.

Main case

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. 60, dated 15.10.2023, under Sections 21/29 of The Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sehna, District Barnala.

2. Learned counsel for the petitioner contends that the instant FIR was registered against two persons including petitioner and from

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them alleged 43 grams of Heroin was recovered which is non-commercial in nature. He submits that challan was presented on 13.12.2023 and charges were framed on 22.12.2023.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for the 7 months and 2 days and is involved in one more FIR. He has opposed the prayer made in the present petition stating that the petitioner is a habitual offender. This fact is countered by learned counsel for the petitioner by submitted that the petitioner was convicted for 30 days with fine of Rs. 500/-.

4. A perusal of the custody certificate shows that the petitioner is behind the bars for 7 months and 2 days and there is no involvement of the petition in any FIR except the FIR in which he was convicted for 30 days with fine of Rs. 500/-, therefore, cannot be said that the petitioner is a habitual offender and in this regard 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



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account of pendency of other cases/convictions in all probability would land the petitioner in a situation of denial of the concession of bail.

5. Further, 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 as out of total 10 prosecution witnesses, none has been examined 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”.

6. 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.

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

8. Petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

20.05.2024
anuradha

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