

2024:PHHC:073459



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

**CRM-M-25091-2024
DATE OF DECISION: 23.05.2024**

GURSEWAK SINGH ALIAS SABU ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Nisha Rana, 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. 291, dated 14.11.2022, under Sections 22 (C) of The Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station STF, Phase-4, District SAS Nagar, Mohali.

2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case. As per the alleged version, on 14.11.2022 the petitioner was traveling in a car from where 33 strips of intoxicants tables of Diphenoxylate Hydrochloride and Atropine Sulphate Tablets ID Lomotil were recovered and since then the petitioner has been in police custody. He submits that investigation is complete, challan is presented and conclusion of trial will take long time.



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3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind the bars for last 1 year, 6 months and 6 day who is not involved in any other case. He on instructions from Investigating Officer has opposed the prayer made in the present petition stating that the car from where the recovery has been effected is owned by the petitioner.

4. Be that as it may, considering the custody period and the fact that the petitioner has clean antecedents 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 15 prosecution witnesses, only 3 have been examined till date 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”**.

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. Petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

23.05.2024
anuradha

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