

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.25503 of 2024 (O & M)
Date of Decision : 24.5.2024

Sanjiv Kumar @ Sanju

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. R. P. Dhir, Advocate, for the petitioner

SANDEEP MOUDGIL, J (ORAL)

This is a petition seeking regular bail in FIR No.16, dated 1.2.2020, under Sections 15 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Tanda, District Hoshiarpur.

2. Learned counsel for the petitioner contends that the petitioner has no connection with other co-accused nor he is owner of the truck. The contraband alleged to have been recovered by the police is from the truck, which is under the ownership of one Bashir Ahmad.

3. Notice of motion.

4. On the asking of Court, Mr. J.S. Rattu, DAG, Punjab, accepts notice on behalf of the respondent-State, who has produced the custody certificate, which is taken on record. According to the custody certificate, the petitioner is behind the bars for the last two years seven months and



seven days. He submits that the earlier bail application of the petitioner, CRM-M No.19443 of 2022, Annexure P-3, was dismissed on 8.12.2022, considering all the other merits of the case and factual aspects, and therefore, the petitioner is not entitled to the concession of regular bail at this stage as well.

5. As far as the contention of learned State counsel that earlier his regular bail petition stands dismissed by this Court vide order dated 8.12.2022, is concerned, the charges in the case were framed on 5.1.2022 but since then trial is not proceeding further as only six out of twelve witnesses have been examined and those six witnesses also are formal in nature, i.e., PW-1 ASI Amarjit Singh, PW-2 ASI Rajan Vasudeva, PW-3 ASI Ranjit Singh, PW-4 Lady Constable Amandeep Kaur, PW-5 Inspector Hargurdev Singh and PW-6 RC Clerk from R.T. Office, who established that the offending truck to which the petitioner was employed as a driver is in the name of Bashir Ahmad son of Mohammad Jamal r/o Pehalgam. Still another six witnesses have to be examined and the recovery of contraband is 4 kg. of poppy husk, which is non-commercial in nature, though in powder form 160 grams of alprazolam was also recovered but on that account the petitioner has already suffered incarceration of two years, seven months and seven days, which reflect that he is not a habitual offender.

6. In the light of the aforesaid facts and considering the discussion made hereinabove, it would be violative of Article 21 of the Constitution of India and the dictum laid down by the Supreme Court in “*Dataram*

Singh vs. State of Uttar Pradesh and another;;, (2018) 3 SCC 22” to

retaining the petitioner in custody when trial is prolonged and likely to take long time which is curtailing the right of the petitioner for speedy trial and expeditious disposal.

7. Hence, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.
8. The present petition is, hereby, allowed.

24.5.2024
Ashwani

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No