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

CRM-M-25763-2024

DATE OF DECISION: 11.07.2024

**KIRANBIR SINGH @ KIRANBEER SINGH
...PETITIONER**

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Yajur Sharma, 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. 200, dated 15.10.2023, under Sections 21/23/25/29 of The Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Amritsar Rural, Punjab.

2. Learned counsel for the petitioner contends that the petitioner has been falsley implicated in this case. He was neither named in the FIR nor any overt act has been attributed to the petitioner. He was not even arrested from the spot. The alleged recovery was effected from co-accused Rahuldeep Singh. The petitioner was nominated on the basis of disclosure statement made by one of the co-accused. He further points out that investigation is complete, challan stands presented on 10.04.2024, charges framed on



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29.05.2024 and out of 14 PWs, no one has examined till date meaning thereby trial will take long time to conclude.

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 last 8 months and 19 days. He has opposed the prayer made in the present petition stating that the petitioner is involved in one more FIR.

5. Having heard learned counsel for the respective parties, this Court is of the considered view that since the petitioner has already suffered sufficient period in custody i.e. 8 months and 19 days 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 14 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. 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



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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 the concession of bail.

7. 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.

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

9. Petition is allowed in above terms.

(SANDEEP MOUDGIL)
JUDGE

11.07.2024
anuradha

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