

2024-PHHC.083007



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

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CRM-M-26849 of 2024

DECIDED ON: 4th July, 2024

Pushpinder Singh @ Bittu

.....PETITIONER

VERSUS

State of Punjab

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Amarjot Kaur, Advocate for petitioner.

Mr. Abhinav Sood, Advocate and
Mr. Nitesh Jhahria, Advocate for respondent No.2.

SANDEEP MOUDGIL., J (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.74 dated 11.03.2022, under Sections 15, 18, 20, 20-C, 25 & 29 of the NDPS Act, 1985, registered at Police Station Sahnewal, District Police Commissionerate Ludhiana.

2. It has been submitted by learned counsel for the petitioner that it is a case where as per the allegation the police had secret information with regard to the fact that two trucks were coming and there is a possibility that they are carrying some intoxicant substance. The first truck i.e. PB23M5617 in which allegedly one Gurjit Singh the co-accused was sitting on the conductor seat and he was the owner of the truck and the same was driven by the Kuldeep Singh @ Keepa and there was another truck i.e. PB10CW6731 which was driven and owned by other co-accused, namely, Avninder Singh @ Maninder Singh and Pushpinder Singh @ Bittu, (petitioner) respectively. He further submitted that the

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police had apprehended both the trucks and so far as the present truck is concerned in which the Gurjit Singh was sitting on the conductor seat, there was no recovery at all made from the truck whereas the other truck which was stated to be following the present truck from which there had been an alleged recovery of 2 quintals of Ganja, 3 kgs. of Poppy Husk and 500 grams of Opium. He submitted that so far as the present petitioner is concerned, he has clean antecedents and he is not involved in any other case and is not a habitual offender and has been falsely implicated in the present case. He also submitted that the information received by the police was totally false information and no recovery has been effected from the petitioner and still he has faced incarceration for two years, three months and seventeen days and charges were framed on 19.7.2022 and by now out of total twenty-five prosecution witnesses, twenty-one had been examined.

3. This Court is obvious of the fact that the petitioner cannot be detained behind the bars for an indefinite period, which would tantamount to violation of principle of criminal jurisprudence i.e. *“bail is a rule and jail is an exception”*, as has been held by Division Bench of this Court in ***Rajinder Singh versus State of Haryana; 2022(2) RCR (Criminal) 85*** as well as by the Apex Court in *“Dataram Singh vs. State of Uttar Pradesh & Anr.”*, 2018(2) R.C.R. (Criminal) 131 apart from the fact that Article 21 of the Constitution of India also includes right of speedy trial and expeditious disposal of the same.

4. On the other hand learned State counsel has submitted that so far as the custody of the petitioner is concerned, the same is correct and

it is also correct that no recovery has been effected from the truck.

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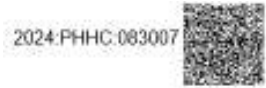


However, he submitted that there was a secret information pertaining to two trucks and the petitioner has been named in the FIR and there was a huge recovery from the other truck and in fact the truck in which the Gurjit Singh co-accused was sitting, was escorting the other truck and therefore, the petitioner does not deserve the concession of regular bail.

5. I have heard the learned counsels for the parties.

6. It is a case where some of the facts are not disputed. The custody of the petitioner which is two years, three months and seventeen days is not disputed. It is also not disputed that there was no recovery effected from the truck, charges being framed on 19.07.2022, by now out of total twenty-five prosecution witnesses, twenty-one had been examined. It is also not in dispute that the petitioner has clean antecedents and he is not involved in any other case. Therefore, this Court will consider the bail petition of the petitioner in the light of Section 37 of the NDPS Act. The petitioner although named in the FIR but the allegations were that there were four persons and two trucks were coming but admittedly no recovery was effected from the truck. As per the State another one year is likely to pass before final judgment is rendered after conclusion of trial and therefore having considering the incarnation period of two years, three months and seventeen days, the petitioner cannot be detained in custody as it would tantamount under Article 21 of the Constitution of India to protect the citizen's right to life and liberty.

7. As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the



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

8. In the light of above, the petitioner is directed to be released on regular bail on her furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

9. In the afore-said terms, the present petition is hereby allowed.

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

4th July, 2024
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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No