

2024:PHHC:075470



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

228

CRM-M- 25992-2024(O&M)

Date of Decision:27.05.2024

DAYA SINGH

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vikas Gupta, Advocate
for the petitioner.

Mr. J.S. Rattu, DAG, Punjab

SANDEEP MOUDGIL, J.(ORAL)

1. This petition u/s 439 Cr.P.C. has been filed for grant of regular bail to the petitioner in FIR No.77, dated 10.05.2023, u/s 21(c)/29 NDPS Act, 1985, P.S. Sarhali, District Tarn Taran (Annexure P-1).
2. Learned counsel for the petitioner submits that present petition is an exemplary case of false implication of the petitioner. In this regard, attention of this Court has been drawn to the notice served under Section 50(1) of the NDPS Act, dated 10.05.2023, to show that though the number of FIR had been mentioned therein but how come the section under which the offence was shown to be made out, stands already mentioned on the said recovery notice. It is beyond imagination as to how the police officials were aware about the contraband to be recovered and that the quantity thereof would be commercial in nature. He also submits that challan in the present case has been presented on 04.04.2024 and out of total 13 prosecution witnesses sighted none has been examined, meaning thereby conclusion of the trial will take long time.

3. Notice of motion.

4. On the asking of the Court, Mr. J.S. Rattu, DAG, accepts notice on behalf of the respondent-State and filed Custody certificate in Court today, which is taken on record.

5. Learned State counsel though opposes the bail application but no explanation has been given as to how the offence was mentioned in advance on the notice under Section 50(1) of the NDPS Act served upon the applicant-appellant. He also submits that charges have been framed against the petitioner and no prosecution witness has been examined so far.

6. Considering the hereinabove made discussion, it is clear that conclusion of the trial will take long time and compliance of section 50(1) of the NDPS Act regarding notice served upon the petitioner, raises doubt in the prosecution story, and the fact that the petitioner is in custody since 10.05.2023, wherein challan was presented in the Court and out of total 13 prosecution witnesses sighted none has been examined so far, and no useful purpose would be served by keeping the petitioner behind the bars for an indefinite period which would violate the principle of right to speedy trial and expeditious disposal under Article 21 of the Constitution of India, as has been time and again discussed by the Court while relying upon the judgment of the Apex Court passed in *Dattaram Singh vs. State of Uttar Pradesh & Anr., 2018 (2) R.C.R. (Criminal) 131*.

7. In the light of the aforesaid facts and circumstances, the petitioner is ordered to be released on bail on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

8. The present petition is, hereby, allowed.

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

(SANDEEP MOUDGIL)
JUDGE

27.05.2024
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1. <i>Whether speaking/reasoned?</i>	Yes
2. <i>Whether reportable?</i>	No