



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

**CRM-M-26778-2024
DECIDED ON:30.05.2024**

NARESH @ NESHU

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Samridhi Sareen, Advocate, for the petitioner.

 Mr. Surender Singh Pannu, Addl. AG, Haryana.

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 case FIR No. 682, dated 23.09.2021, under Sections 20(b) (ii) (c) and 27-A of the NDPS Act, 1985 registered at Police Station City Hansi, District Hisar.

2. It has been contended by learned counsel for the petitioner that the petitioner has been nominated on the basis of disclosure statement of co-accused Sanjay and the recovery whatsoever i.e 8 KG of sulpha has been shown to be effected from the petitioner. He relies upon the orders dated 08.02.2024 and 03.04.2024 passed in CRM-M-37345-2023 and CRM-M-14852-2024 vide which the co-accused of the petitioner namely Jasmer @ Kuku and Sanjay have been granted the concession of regular bail by this Court.

2. Custody certificate of the petitioner filed by learned State counsel is taken on record. According to which the petitioner has suffered incarceration for a period of 2 years 08 months and 3 days. He prays for dismissal of the present petition stating that a large quantity of contraband has been recovered

from the possession of the petitioner, who is also involved in multiple cases of similar nature. Though the said fact has not been mentioned in the custody certificate.

3. As per the prosecution case, 8 Kg Sulpha has been recovered from the spot but there is no incriminating material available to show that the contraband has been recovered from the conscious possession of the petitioner, as the recovery has been effected from an open ground, as has been argued by learned counsel for the petitioner.

4. Be that as it may, considering the custody period undergone by the petitioner i.e. 2 years 8 months and 3 days as is evident from the custody certificate and co-accused namely Jasmer @ Kuku and Sanjay (Annexures P-4 and P-5) have already been granted the concession of regular bail added with the fact that conclusion of trial shall take sufficient time as after framing of charges on 27.03.2022, only 5 prosecution witnesses have been examined so far out of total 27, no useful purpose would be served by keeping the petitioner behind bars for uncertain period, which would amount to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India, as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.***

5. As far as the 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 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

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.

6. In view of the 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.

7. The present petition is hereby allowed.

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.

30.05.2024
Sham

(SANDEEP MOUDGIL)
JUDGE

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