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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.29390 of 2024
Date of decision : 3.7.2024

Deepak Kumar @ Deepu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. P.S. Sekhon, Advocate, for the petitioner
Mr. J.S. Rattu, DAG, Punjab

SANDEEP MOUDGIL, J (ORAL)

This petition under section 439 Cr.P.C. has been filed for grant of regular bail to the petitioner in case FIR No.142 dated 6.12.2022, under Sections 18-C and 25 of the NDPS Act, 1985, registered at Police Station Beretta, District Mansa.

2. Learned counsel for the petitioner contends that the petitioner is driver as well as owner of the car from whhich 2.600 kg. of opium was recovered, which is marginally over and above the commercial quantity, and false implication of the petitioner has been argued on the strength of fact that the petitioner was met with an accident on 18.9.2022, remained admitted in hospital upto 27.9.2022. During this period, he underwent surgery of the left leg and left arm including the shoulder. It is submitted before this Court that during the course of surgery a plate has been implanted and the petitioner was advised bed rest for 2 months and there



is no occasion for him to drive the car on the alleged day of occurrence.

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 the last 1 year, 6 months and 23 days, who is involved in 3 other cases and convicted in one case. He has opposed the prayer made in the present petition.

4. Be that as it may, having given considerable thought including the fact that there is doubt in the prosecution story as it may be there is strong probability of false implication of the petitioner who admittedly has undergone surgery wherein a plate was implanted in the left leg and he was advised bed rest for 2 months. In these circumstances, it is highly improbable for the petitioner to drive the car on 6.12.2022 after having been operated on 21.9.2022. Apart from that, he has already completed incarceration of 1 year 6 months and 23 days and not involved in any other such case of NDPS Act except one, in which he is on production warrants but in that case he is on bail as well. 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 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.

5. 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.

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

7. The petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

3.7.2024
Ashwani

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