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

CRM-M-29100-2024

DATE OF DECISION: 02.07.2024

BOOTA SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Manjot Kaur, 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. 128, dated 30.06.2022, under Sections 15 and 25 of The Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station City Samana, District Patiala.
2. Learned counsel for the petitioner contends that as per the prosecution version on the basis of secret information to the effect that the petitioner along with other co-accused persons are indulging in smuggling of poppy husk, a naka was laid and the petitioner along with co-accused were apprehended with 240 kg. of poppy husk. She has argued that the petitioner has been falsely implicated in this case and recovery has been planted upon him. The petitioner is in custody since 30.06.2022.



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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 1 year, 11 months and 28 days. He has opposed the prayer made in the present petition stating that the petitioner is involved in other FIRs also and the recovery effected is commercial in nature, therefore, the petitioner does not deserve the concession of bail.

5. Be that as it may, having gone through the custody certificate, the period of incarceration is 1 year, 11 months and 28 days and the petitioner is not involved in any case under the NDPS Act, though there are couple of other FIRs under offences which are less serious in nature like Prisons Act and Sections 323/34/506 IPC and he is on bail in those FIRs. In the instant case, it is also a matter of record that charges were framed on 16.04.2024 and trial is prolonged and likely to take long time in the light of the fact that out of 16 prosecution witnesses, none has been examined till today. As per the principle of the criminal jurisprudence, no one should be considered as guilty till the guilt is proved beyond reasonable doubt 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".



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6. 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.

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

8. Petition is allowed in above terms.

(SANDEEP MOUDGIL)
JUDGE

02.07.2024
anuradha

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>