



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

**CRM-M-31286-2024
DECIDED ON: 09.07.2024**

KAMALDEEP GOYAL@SONY

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.20, dated 30.03.2024, under Sections 18 and 29 of the NDPS Act, 1985, registered at Police Station Longowal, District Sangrur.
2. Learned counsel for the petitioner contends that the alleged contraband i.e. 02 kgs opium has been recovered from the possession of the petitioner, which is non-commercial in nature. He supports his argument by asserting on the fact that the petitioner is not involved in any other case whereas in FIR, it has been mentioned that he is a habitual offender and involved in the business of selling opium, who was found sitting on the first floor of his house and was smelling from the polythene carry bag at the time when the police party headed by ASI Mehar Singh raided the house.
3. On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record.

He seeks dismissal of the instant petition urging that the petitioner had attempted to throw the carry bag and made an effort to ran away from the spot but was apprehended along with the contraband measuring 02 kgs opium, not disputed to be non-commercial.

4. Be that as it may, having given a considerable thought to the fact that recovered contraband is non-commercial in nature wherein the petitioner is behind the bars for 03 months and 06 days by now, who is not involved in any other case, meaning thereby, he is not a habitual offender as is evident from custody certificate produced in Court today which belies the fact that the petitioner is a habitual offender while registering the FIR on the basis of secret information apart from the fact that charges have been framed on 19.07.2024 and out of total 11 prosecution witnesses, none has been examined so far and the evidence has not yet commenced, meaning thereby, the conclusion of the trial will take a long time, for which the petitioner cannot be detained behind the bars for an indefinite period.

5. In the light of aforesaid discussion and having gone through the record with the assistance of learned counsel for the petitioner, 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.

6. Therefore, 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. In the afore-said terms, 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.

09.07.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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