

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36103-2023
DECIDED ON: 20.03.2024

KESHAV KHERA @ KAKU

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Umesh Aggarwal, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail to the petitioner in FIR No.95, dated 21.06.2019, under Sections 21, 22 of NDPS Act, 1985 (Sections 25/27 of Arms Act added later on), registered at Police Station Gate Hakima Amritsar.
2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and alleged recovery i.e., 900 intoxicant tablets and 15 grams of heroin were effected from a polythene envelope, but not from the conscious possession of the petitioner. He also asserts qua the violation of policy/circular dated 04.03.2015 issued by Government of Punjab from the office of Director General of Police, as police party was in a private vehicle, which is otherwise not permissible and in case of doing so, during the course of investigation, it was duty bound to record the details of vehicle i.e., number, type, driver's name and payment details.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He prays for dismissal of the present petition stating that petitioner is a habitual offender, who is involved in multiple cases and the quantity of contraband is commercial in nature.

4. Heard, learned counsel for respective parties.

5. Considering the custody period suffered by the petitioner i.e., 1 year, 2 days, wherein recovery of contraband was not effected from the conscious possession of the petitioner added with the fact that conclusion of trial shall take sufficient time, as out of total 14 prosecution witnesses, only 1 has been examined so far after framing of charges on 03.04.2023, no useful purpose would be served by keeping him behind bars for an indefinite period, which would amount to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle “*bail is a rule and jail is an exception*”, 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.***

6. As far as the contention of learned State counsel with regard to pendency of 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, this Court observed that pendency of other FIRs involving the accused-petitioner cannot be a predicament to consider the case for anticipatory bail or regular bail, as the evidence of the material involved in those FIRs can be treated in those cases alone and not material in instant FIR against the accused-petitioner to hold him guilty.

7. In the light of the above 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.

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

20.03.2024

Meenu

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