

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

104 CRM-10357-2024 in/and
274 CRM-M-37409-2023
DATE OF DECISION:13.03.2024

DILBAGH SINGH @ BAGGA ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Satwant Mehta, Advocate for the
applicant/petitioner(s).

Mr. Karunesh Kaushal, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

CRM-10357-2024

This application has been filed for placing on record the
interim orders passed by the Trial Court in case No. NDPS 154 of 2023
(FIR No. 78 dated 15.07.2021) as Annexure P-5 to P-17.

For the reasons mentioned in the application, the same is
allowed subject to all just exceptions and above-mentioned documents
are taken on record.

Main case

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.07, dated 31.01.2021 (Annexure P-1), under Sections 22 and 29 of
the NDPS Act, 1985, registered at Police Station Bhikhiwind, District
Tarn Taran.

2. Learned counsel for the petitioner submits that the
petitioner has been arrayed as an accused on the basis of disclosure

statement made by co-accused Rahul Bharghav who stated that the tablets carried at alleged offending vehicle were to be delivered to the present petitioner. Though there is no direct evidence and only on that basis, the petitioner has been falsely implicated in the instant FIR.

3. Learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He has referred to other cases in which the petitioner is involved as has been detailed in the custody certificate also. He seeks dismissal of the instant petition urging that the petitioner is a habitual offender.

4. Be that as it may, except disclosure statement there is no direct evidence against the petitioner at this stage, wherein he has already suffered incarceration for a period of 1 year, 9 months and 24 days. This Court is sanguine of the fact that co-accused Sandeep Kumar @ Sandeep Kumar Budania was released on regular bail vide order dated 11.03.2024 by this Court in CRM-M-11375-2024 and the petitioner is on better footing than the co-accused.

5. 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.

6. Looking into the totality of facts and the discussions made hereinabove, this Court is of the firm view that no useful purpose would be served by keeping the petitioner behind the bars for uncertain period, wherein bail is a rule and jail is an exception and it would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of Constitution of India, as has been time and again discussed by this Court, while realising the judgment of the Apex Court passed in *Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131*. Further, that out of 16 prosecution witnesses, none has been examined so far.

7. In light of the above, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of trial Court/Duty Magistrate, concerned.

8. The present petition is, hereby, allowed.

(SANDEEP MOUDGIL)

JUDGE

13.03.2024

anuradha

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No