

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38303-2023 (O&M)
DECIDED ON: 22.03.2024

BAHADUR SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. P.S. Hundal, Sr. Advocate with
Mr. Vikramjeet Singh, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 of the Code of Criminal Procedure 1973 has been invoked seeking regular bail to the petitioner in FIR No. 135, dated 28.08.2022, under Sections 15-C, 27-A and 29 of NDPS Act, 1985, registered at Police Station Sangat, District Bathinda.
2. Learned Senior counsel has contended that the petitioner has been falsely implicated in the present case, as nothing has been recovered from his conscious possession and he was merely the occupant of the car from which 40 kg of poppy husk was recovered. He has further contended that the recovery whatsoever has been effected is non-commercial quantity. It is submitted that the person who is driving the car is the owner of the car as well as the truck and on that surmises the petitioner has been nominated as an accused. Apart from that no direct incriminating material has been put forth by the prosecution so far.

3. Custody certificate of the petitioner filed by learned State counsel is taken on record. Learned State counsel prays for dismissal of the present petition submitting that the petitioner is a habitual offender, as he is involved in three other cases of similar nature. Though he could not controvert the fact that out of those three cases in two cases he is on bail.

4. Faced with the situation, learned Senior counsel submits that petitioner stood acquitted in FIR Nos. 15 dated 21.01.2018 and 67, dated 11.09.2018 by Judge, Special Court, Bathinda vide judgment of acquittal dated 05.02.2021 and 08.03.2021 respectively.

5. Be that as it may, considering the custody period undergone by the petitioner i.e. 1 year 6 months and 23 days as of now, added with the fact that out of total 23 prosecution witnesses only one has been examined till date after framing of charges on 12.04.2023, meaning thereby, the trial is moving at snail's pace, this Court is of the considered view that no useful purpose would be served by detaining the petitioner behind bars for an indefinite period, which would also curtail his right to life and liberty as enshrined under Article 21 of the Constitution of India and is also against the basic principle of "*Bail is rule and Jail is an exception*".

6. 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.

7. 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.

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.

22.03.2024

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(SANDEEP MOUDGIL)
JUDGE

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