



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

**CRM-M-38314-2023
DATE OF DECISION: 14.05.2024**

**ABDUL REHMAN @ MAANI ...PETITIONER
Versus
STATE OF PUNJAB ... RESPONDENT**

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.P.S.Sekhon, Advocate for the petitioner(s).
Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court has been invoked under Section 439 Cr.P.C. for grant of regular bail in FIR No. 02 dated 03.01.2023 under Section 22 and 29 of The Narcotic Drugs and Psychotropic Substances Act, 1985 and Sections 353/186 IPC, registered at P.S. City-II, Malerkotla, District Malerkotla.

Learned counsel for the petitioner submit that the alleged recovery made from the petitioner is 11 bottles of cough syrup make Wincirex. He submits that the petitioner and his wife were falsely implicated in this case as the petitioner was earlier involved in another FIR No. 67 dated 03.05.2016. Brief facts are that on 03.01.2023, the police officials raided the house of the petitioner without any female police official. The wife of the petitioner objected to the behaviour of the police officials who started using foul language with her. The wife of the petitioner was even manhandled by them and slapped her after bringing her in the street. Learned counsel for the petitioner furthersubmits that neighbourers gathered in the street and the said

**CRM-M-38314-2023****-2-**

incident was witnessed by them. The petitioner is in custody since 03.01.2023.

Notice of motion.

On the asking of Court, learned State Counsel appearing on advance notice, accepts notice on behalf of respondent-State and has produced FSL Report as well as custody certificate of the petitioner. While referring to the FSL Report, learned State Counsel points out that Codeine Phosphate was present in the said parcel which weighed 123.9 grams which would come to 1362.9 grams in total for 11 bottles making it more than commercial quantity i.e. 1 kg. as per Schedule of The Narcotic Drugs and Psychotropic Substances Act. He further submits that the petitioner has been convicted in one more FIR No. 67 dated 03.05.2016 under Section 20 of NDPS Act, registered at P.S. City-I, Malerkotla.

Be that as it may, considering the facts that the petitioner has already suffered 1 year, 4 months and 9 days of custody in the present FIR and in the above said FIR No. 67, the petitioner is on regular bail after having undergone sentence of 3 years and 17 days out of total sentence of 10 years and the appeal is pending in this Court in that FIR. The charges have been framed in the present FIR on 14.09.2023 and out of total 14 prosecution witnesses, 5 have been examined, meaning thereby, trial will take time to conclude. As far as the pendency of other cases and involvement of the petitioner in other

**CRM-M-38314-2023****-3-**

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.

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.***

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 the Trial Court/Duty Magistrate, concerned.

The present petition is, hereby, allowed.

(SANDEEP MOUDGIL)
JUDGE

14.05.2024
anuradha

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