

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41079-2023
DECIDED ON: 19.01.2024

GAGANEEP SINGH @ GAGGU @ KULWINDER SINGH
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Mr. Digvijay Nagpal, AAG 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.192, dated 11.11.2022, under Sections 18 and 29 of NDPS Act, 1985, registered at Police Station Vairo Ke District Fazilka.
2. Learned counsel for the petitioner submits that the recovery of 50 grams opium was recovered from the house of the petitioner, which is non-commercial in nature and there is no bar under Section 37 of NDPS Act to grant bail to the petitioner. He asserts that the provisions of Section 100(4) of Cr.P.C., was not complied with in letter and spirit.
3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to the custody certificate, the petitioner is behind the bars for the last 1 year, 2 months and 4 days. He prays for dismissal of the present petition on the ground that the petitioner is involved in other cases, wherein in all the cases, he is on bail except in one FIR bearing No.54 dated 09.08.2019, under Sections 15, 25, 29 of NDPS Act, registered at Police Station Amir Khas.
4. Be that as it may, considering the fact that alleged contraband is non-commercial in nature and the custody period suffered by the petitioner is 1 year, 2 months and 4 days, wherein after framing of charges on 02.08.2023, out of total 11

prosecution witnesses, none has been examined so far, which is suffice to convince this Court that trial will certainly take long time, no fruitful purpose would be served by keeping the petitioner behind the bars, which would amount to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India.

5. 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.

6. In the light of 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.

7. 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.

(SANDEEP MOUDGIL)
JUDGE

19.01.2024

Meenu

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