

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

**CRM-M-44908-2023
DECIDED ON: 15.02.2024**

DEEPAK KUMAR ALIAS KALU

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ritesh Pandey, 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., for grant of regular bail to the petitioner in FIR No.56, dated 12.07.2023 (Annexure P-1), under Sections 21(b), 27(a), 29 of the NDPS Act, registered at Police Station Tibber, District Gurdaspur.

2. Learned counsel for the petitioner contends that the alleged contraband i.e. 18 grams of heroin is non-commercial in nature and the same was recovered from the co-accused of the petitioner namely, Gurmit Singh. He further contends that the petitioner was not initially named in the FIR but was subsequently roped in only on the basis of disclosure statement of co-accused Gurmit Singh and the petitioner is in custody since 12.07.2023.

3. Learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He could not controvert the fact that the alleged contraband is non-commercial in nature and seeks dismissal of instant petition stating that the petitioner is involved

in three other FIRs and out of which, in one FIR No.97 dated 05.07.2023, he is on bail.

4. To counter the aforesaid assertion, learned counsel for the petitioner submits that even in the said FIR No.97, dated 05.07.2023, the petitioner is also on bail, as has been granted by Judge, Special Court, Gurdaspur vide order dated 24.11.2023, copy of which has been produced in Court today and the same is taken on record.

5. Be that as it may, considering the fact that the recovered contraband is non-commercial in nature added with the fact that out of total 10 witnesses, none has been examined till date, meaning thereby, the conclusion of trial will take certainly long time.

6. This Court is sanguine of the fact that according to the proposition settled by the Apex Court that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts 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*”.

7. 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 of the concession of bail.

8. In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on her furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

9. In the afore-said terms, the present petition is hereby allowed.

10. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

15.02.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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