

210 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-45455-2023

Decided on:-19.01.2024

Rakesh

....Petitioner..

VS.

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Kanishth Ganeriwala, Advocate for the petitioner.

Mr. Shubham Kaushik, AAG, Punjab.

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973, prayer has been made for grant of regular bail pending trial, in case bearing FIR No.103, dated 23.09.2022, registered under Sections 18 and 29 of the NDPS Act, 1985, at Police Station Mehna, District Moga.

2. In the present case, petitioner has been implicated for the alleged recovery of 3 kgs of '*Opium*'.

3. On the other hand, prayer made herein has been opposed at the instance of learned State counsel while submitting that the recovery involved in the present case is of commercial quantity and petitioner is likely to commit similar offence in future.

4. I have heard learned counsel for the parties and gone through the paper book and find substance in the submissions made on behalf of the petitioner.

5. Admittedly, the petitioner is a young man of 22 years of age, who is behind the bars for the past almost 01 year & 04 months, the

investigation in the present case already stands concluded with the filing of challan, followed by framing of charges on 07.07.2023 and none of the prosecution witness has been examined so far out of total of 14 witnesses and trial is likely to take some time. Thus, considering the aforesaid facts, I do not find any reason to extend the incarceration of the petitioner any further.

6. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned Trial Court/Duty Magistrate.

7. It may be pointed out here that there has been unexplained delay on the part of the prosecution while recording of the evidence as charges were framed on 07.07.2023 and none of the prosecution witness has been examined so far, which clearly denies the petitioner of his right to speedy trial as enjoined under Article 21 of the Constitution of India. It has also been brought to the notice of this Court that despite service, prosecution witnesses are not appearing before the trial Court for recording of their statements.

8. Accordingly, the concerned SHO is burdened with costs of Rs.20,000/- to be paid to the Legal Services Authority, Punjab.

9. It is made clear that this order may not be construed to be as expression of an opinion on the merits of the case.

19.01.2024
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/ No