

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48309-2022
DECIDED ON: 20.02.2024

GURNISHAN SINGH @ BOOTAPETITIONER

VERSUS

STATE OF PUNJABRESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gurpal Singh Sandhu, Advocate for the petitioner.

Mr. Jasjit Singh Rattu, DAG Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 17, dated 27.01.2021, under Section 22(c) of NDPS Act, 1985. registered at Police Station Sri Muktsar Sahib, Distt. Sri Muktsar Sahib.
2. In compliance of the order dated 08.11.2023, short reply by way of an affidavit dated 19.02.2024 of Bhagirath Singh Meena, IPS, Senior Superintendent of Police, Sri Muktsar Sahib has been filed, which is taken on record. A copy of the same has been supplied to the counsel for the petitioner.
3. It is evident on perusal of the said affidavit that out of total 15 prosecution witnesses, 9 have been examined so far and it is further pointed out by learned State counsel that only 5 formal witnesses are to be examined, wherein the case is now listed for 29.02.2024.
4. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He prays for dismissal of the instant petition stating that the petitioner is involved in other cases, therefore, does not deserve the concession of regular bail at this stage.

5. On the other hand, learned counsel for the petitioner has relied upon an order dated 04.08.2023 passed in CRM-M-18787-2023 by this Court, whereby co-accused namely Sukhwant Singh has already been granted the concession of regular bail.
6. Considering the custody period suffered by the petitioner i.e., 3 years and 21 days, which is more than the period suffered by the co-accused Sukhwant Singh, meaning thereby the principle of 'Bail is a rule and jail is an exception' would be defeated and 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.
7. In light of the 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.
8. The present petition is hereby allowed.
9. 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

20.02.2024

Meenu

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