

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53067-2022
DECIDED ON: 14.05.2024

MANDEEP SINGH @ BHEEPAPETITIONER

VERSUS

STATE OF PUNJABRESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. P. S. Sekhon, 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.13, dated 12.02.2022 (Annexure P-1), under Sections 22 and 29 of the NDPS Act, 1985, registered at Police Station Sherpur, District Sangrur.
2. Learned counsel for the petitioner contends that as per the prosecution story, 500 tablets of Taramadol and 500 loose tablets were recovered from the possession of the petitioner, who was allegedly seen carrying a polythene bag consisting of said contraband. He further contends that the recovery is not from the conscious possession of the petitioner as the investigating agency has tainted the story against the petitioner by falsely implicating him that it was the petitioner who threw away the polythene bag seeing the police party. He further contends that the recovered contraband is non-commercial in nature.

3. On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition urging that the petitioner is involved in two more cases, meaning thereby he is a habitual offender.

4. Be that as it may, considering the custody period i.e. 02 years, 02 months and 29 days, for which the petitioner has suffered incarceration and the fact that the recovered contraband is non-commercial in nature added with the fact that charges have been framed on 10.08.2022 and out of total 13 prosecution witnesses, only 03 have been examined so far, meaning thereby, the conclusion of trial will take a long time for which the petitioner cannot be detained behind the bars for an indefinite period.

5. 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 land the petitioner in a situation of denial of concession of bail.

6. In the light of above facts, this Court is sanguine of the fact that according to the proposition settled by the Apex Court in ***Dataram Singh vs.***

State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131, 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. Therefore, 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. In the afore-said terms, 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.

14.05.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No