

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-63366-2023
DECIDED ON: 15.02.2024

HARSIMRANJIT SINGH @ KARANT @ CAPTAIN
.....PETITIONER

VERSUS

STATE OF PUNJAB
....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Raj Kumar Gupta, Advocate for the petitioner.
Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked for the second time under Section 439 Cr.P.C., for grant of regular bail to the petitioner in FIR No.34, dated 30.04.2019, under Sections 22, 29 of NDPS Act, 1985, registered at Police Station STF Phase IV, District Mohali.
2. Learned counsel for the petitioner contends that the recovery of alleged contraband i.e. 310 grams of heroin was effected from the conscious possession of the petitioner, which is marginally high as compared to the commercial quantity. The specific stand of the petitioner is to the effect that charges were framed on 15.01.2019 and out of total 18 prosecution witnesses only 10 have been examined till date, meaning thereby the trial is moving at a snail's pace.

3. 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 out of total 18 prosecution witnesses, 10 witnesses have been examined and examination-in-chief of two witnesses have already been completed, who are now summoned for cross-examination before the trial Court on the next date of hearing i.e. 19.02.2024.

4. Be that as it may, considering the fact that charges were framed way back in January, 2019 and out of total 18 prosecution witnesses, only 10 witnesses have been examined so far, meaning thereby the conclusion of trial will take a long time.

5. 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*".

6. Even otherwise, the custody of 11 months and 15 days, as is reflected in the custody certificate though deems to be on the lower side but the petitioner is in custody since his arrest on 30.04.2019 and during the intervening period from 06.06.2019 to 07.04.2023, he was in custody in other case i.e. FIR No.195, dated 29.09.2016.

7. 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.

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.

15.02.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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