

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-63359-2023
DECIDED ON: 26.02.2024

BINDER SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ashok K. Sharma, Advocate
for the petitioner.

Mr. Gurbir Singh Dhillon, AAG Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail to the petitioner in FIR No.414, dated 13.11.2022, under Sections 18(C) of NDPS Act, 1985 (Section 29 of NDPS Act added later on), registered at Police Station Uklana, District Hisar.
2. Learned counsel for the petitioner submits that the petitioner was nominated as an accused merely on the basis of disclosure statement of co-accused persons namely Sandeep @ Sonu and Kuldeep, who have been granted the concession of regular bail by this Court vide order dated 23.11.2023 (Annexure P-3) passed in CRM-M-31846-2023 and CRM-M-35978-2023 respectively. He further submits that no recovery whatsoever has been effected from the possession of the petitioner in any manner.
3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to the custody certificate, he is involved in two

other cases bearing FIR No.29/2019 under Sections 34, 379 and 420 of IPC, registered at Police Station Uklana, Hisar and FIR No.375/2021 under Sections 15/27-A of NDPS Act at Police Station Narwana, District Jind, in which he is not on bail, he therefore, prays for dismissal of the present petition.

4. The said fact has been countered by learned counsel for the petitioner producing a copy of the order dated 11.01.2024 passed by Judicial Magistrate 1st Class, Hisar vide which in FIR No.29/2019, under Sections 34, 379 and 420 of IPC, he has been granted the bail.

5. Heard, learned counsel for respective parties.

6. Be that as it may, considering the fact that no recovery has been effected from the conscious possession of the petitioner, who is behind bars for the last 1 year, 3 months and 7 days, as is evident from the perusal of custody certificate and the co-accused persons namely Sandeep @ Sonu and Kuldeep have already been granted the concession of bail added with the fact that nothing is to be recovered from his possession, wherein investigation is complete, challan stands presented and out of total 25 prosecution witnesses, none has been examined so far after framing of charges on 14.11.2023, which is sufficient for this Court to infer that conclusion of trial shall take sufficient time, no useful purpose would be served by keeping the petitioner behind bars for an uncertain period, which would amount 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*", as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.***

6. 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

26.02.2024

Meenu

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