

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-63924-2023
DECIDED ON: 11.03.2024

GURPREET SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Barjinder Singh, 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.60, dated 07.09.2023 (Annexure P-1), under Sections 21, 27-A, 29, 61, 85 of NDPS Act, 1985, registered at Police Station Jhandher, District Amritsar.

2. Learned counsel for the petitioner contends that nothing has been recovered from the conscious possession of the petitioner, who has been nominated as an accused in the instant FIR only on the basis of disclosure statement made by co-accused Manjit Kaur and Bobby Singh and he was arrested on 09.09.2023 i.e. two days after the registration of FIR on 07.09.2023. He further submits that the alleged recovery of contraband i.e. 55 gms of heroin along with Rs.26,500/- of drug money was effected from the main accused namely Manjit Kaur and Bobby Singh and nothing has been recovered from the petitioner to connect him with the present FIR. He

further contended that the petitioner is not a habitual offender as he is not involved in any other case. He further argues that investigation is complete and challan stands presented before the trial Court on 13.02.2024 added with the fact that the alleged recovery of contraband is non-commercial in nature and in support of his argument, he relied upon a judgment of the Hon'ble Supreme Court in ***"Tofan Singh versus State of Tamil Nadu", AIR 2020, SCC 5592.***

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 on the ground that the petitioner was part of the group which was dealing in the drug peddling.

4. Be that as it may, considering the fact that nothing has been recovered from the conscious possession of the petitioner and the alleged recovery of contraband is non-commercial in nature and in view of the law laid down in Tofan Singh's case (supra) added with the fact that investigation is complete, challan stands presented on 13.02.2024, meaning thereby the conclusion of trial will take a long time.

5. In view of the above, this Court is obvious of the fact that the petitioner cannot be detained behind the bars for an indefinite period, which would tantamount to violation of principle of criminal jurisprudence i.e. *"bail is a rule and jail is an exception"*, as has been held by Division Bench of this Court in ***"Rajinder Singh versus State of Haryana", 2022(2) RCR (Criminal) 85*** apart from the fact that Article 21 of the Constitution of India also includes right of speedy trial and expeditious disposal of the same.

6. 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.
7. In the afore-said terms, the present petition is hereby allowed.
8. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

11.03.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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