

204

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64077-2023
DECIDED ON: 04.01.2024

JANARDHAN @SONU

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.S. Duhan, Advocate
for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

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.148 (Annexure P-1), dated 22.06.2023, under Sections 21, 27A, 61, 85 of NDPS Act, 1985, registered at Police Station Pillukhera, District Jind.

2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case as he was not initially named in the instant FIR and no recovery whatsoever has been effected from his possession in any manner. He also asserts that the alleged recovery of smack/heroin measuring 9.55 grams was recovered in a polythene bag from co-accused Mohit, who was the only accused named in the FIR and on his disclosure statement, the present petitioner has been nominated as an accused, who was arrested on 31.10.2023. He also submits that in fact the

against the petitioner and it is on that account, after four months of registration of FIR, the petitioner has been picked up and nominated as an accused in the instant FIR on the forced disclosure statement made by co-accused Mohit.

3. On the other hand, learned State counsel has produced the custody certificate of the petitioner, which is taken on record, to demonstrate that he has suffered incarceration for a period of 02 months & 02 days. He submits that the petitioner is involved in four other FIRs, which reflect that the petitioner is a habitual offender and apart from that there is no other incriminating material putforth by the Investigating Agency so far connecting the petitioner with the commission of alleged offence except records of CDR that the petitioner is in regular contact with co-accused Mohit, therefore, prays for dismissal of the instant petition.

4. Be that as it may and with the assistance of learned State counsel and after perusal of the record, this Court is duly convinced that the petitioner was not initially named in the present FIR but roped in merely on the basis of disclosure statement made by co-accused Mohit, who has already been granted the concession of regular bail vide order dated 31.07.2023, passed by the trial Court, wherein recovery of 9.55 grams of smack/heroin is in question. Though the custody period of the petitioner is apparently on the lower side i.e. 02 months and 02 days but it cannot be a ground to deny the regular bail and to keep the petitioner in custody, which otherwise would curtail the right of the petitioner for speedy trial and expeditious disposal, as enshrined under Article 21 of the Constitution of India and is against the principle “bail is a rule and jail is an exception”. It is the

basic principle of criminal jurisprudence that until or unless guilt is proved, nobody can be punished.

5. As far as the pendency of other cases is concerned, as has been stated by learned State counsel, 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 lend the petitioner in a situation of denial the concession of bail.

6. Looking into the totality of facts and circumstances and also the fact that nothing has been recovered from the possession of the petitioner; investigation stands complete; challan stands filed on 21.12.2023, though the charges are yet to be framed and trial is not yet commenced and more than six months have elapsed since the registration of FIR; the petitioner is on bail in other cases except FIR No.176/2018, under Section 354-A, 506/34 IPC, registered at Police Station Pillukhera, District Jind, wherein in the column whether he is in bail or not, State has mentioned 'No', however, learned counsel for the petitioner counters the same by asserting that the petitioner is on bail in the said case as well.

7. In view of the aforesaid 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. 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.

04.01.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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