

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64457-2023
DECIDED ON: 15.01.2024

SURENDER @ MINI

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Shweta Bawa, 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.278, dated 16.08.2021, under Section 20 of NDPS Act, 1985 (Sections 20(c) and 27 of NDPS added during investigation), registered at Police Station Sadar Hansi, District Hisar.
2. Learned counsel for the petitioner contends that the petitioner is behind the bars since 17.08.2021, wherein alleged recovered contraband i.e., 20 kg and 500 grams of Ganja is marginally over and above the commercial quantity apart from the fact that co-accused namely Rekha has already been granted the concession of regular bail vide order dated 28.08.2023 (Annexure P-3) passed by a co-ordinate Bench of this Court in CRM-M-30308-2023.
3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to the custody certificate, the petitioner is behind the bars for the last 2 years, 4 months and 21 days, who is not involved in

any other case. He has filed the status report by way of an affidavit of Pardeep Yadav, HPS, Deputy Superintendent of Police, Hansi, which is taken on record.

4. Be that as it may, the alleged recovered contraband is marginally over and above the commercial quantity; the petitioner has already suffered incarceration of 2 years, 4 months and 21 days added with the fact that trial will certainly take long time as out of total 19 prosecution witnesses, none has been examined so far, after framing of charges on 27.07.2023 and the petitioner is person of clean antecedents, no useful purpose would be served by keeping the petitioner behind the bars, 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 rule and jail is an exception”.

5. In the light of above, 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.

6. The present petition is, hereby, allowed.

7. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

15.01.2024

Meenu

(SANDEEP MOUDGIL)
JUDGE

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