

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64612-2023
DECIDED ON: 05.01.2024

SHER KAUR @ SHERO

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG Punjab

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.114, dated 21.10.2023, under Section 21 of NDPS Act, 1985, registered at Police Station City Samana, District Patiala.
2. Learned counsel for the petitioner contends that its a case of false implication wherein the recovery of 25 grams of heroin has been planted upon the petitioner, which is non-commercial in nature. He submits that the alleged recovery has been shown from the house of the petitioner that too at night after the sunset. He further submits that there is non compliance of Section 42 of NDPS.
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 bars for the last 2 months and 13 days. He prays for dismissal of the instant petition on the ground that the petitioner is involved in various other cases.

4. Looking into the totality of facts and the quantity of contraband, this Court is duly convinced that it is a non-commercial quantity and trial is likely to take long time, as challan stands presented, but the charges are yet to be framed, no fruitful purpose would be served by keeping the petitioner behind the bars for an indefinite period, as it would amount to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is also against the very principle “bail is a rule and jail is an exception”.

5. 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.

6. 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.

7. 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.

(SANDEEP MOUDGIL)
JUDGE

05.01.2024

Meenu

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