

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-65217-2023
DECIDED ON: 09.01.2024

BIJENDER @ BABLAPETITIONER

VERSUS

STATE OF HARYANARESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ankit Chahal, 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.351, dated 17.08.2021, under Sections 17 & 20 of NDPS Act, 1985 and Section 25 of Arms Act, 1959, registered at Police Station Sadar, Rohtak.
2. Learned counsel for the petitioner contends that the petitioner has been falsely nominated in the FIR as an accused on account of alleged recovery of 2 kg of *charas* and 200 grams of *opium* alongwith one country made pistol and 2 cartridges, which were being carried by the petitioner without any licence. He lays much stress to the fact that since the framing of charges in February 2022, out of total 15 prosecution witnesses, only 10 have been examined, despite lapse of almost two years by now and in support of his assertion has referred to the zimni orders attached as Annexures P-5 to P-20 to assert that the petitioner was not being produced before the Court by the jail authorities or the PWs were not present and on that account trial is being delayed unwarrantedly for which no fault is attributed to the petitioner.

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 20 days. He prays for dismissal of the present petition on the ground that the petitioner was earlier convicted vide order of sentence dated 16.01.2007 for Rigorous Imprisonment of 15 years, in which he has completed the sentence.

4. Looking into the totality of facts and circumstances and the custody period undergone by the petitioner i.e., 2 years, 4 months and 20 days apart from the fact that trial is likely to take long time, as multiple witnesses are left out to be examined by the prosecution itself, as is evident from the zimni orders, as has been referred hereinabove and the petitioner is not attributed on his part to delay in the trial, no useful purpose would be served by keeping the petitioner behind the bars for an indefinite 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 rule and jail is an exception”.

5. In the light of 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.

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.

(SANDEEP MOUDGIL)
JUDGE

09.01.2024

Meenu

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