

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-65202-2023
DECIDED ON: 09.01.2024

RAMAN

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Jasdeep Singh Gill, Advocate and
Mr. Kanwar Raj Singh, Advocate for the petitioner.

Mr. H.S. Sitta, DAG 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.73, dated 23.06.2022, under Section 21 of NDPS Act, 1985, registered at Police Station Cantt. Ferozepur, District Ferozepur.
2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and subsequently nominated as an accused and the recovery of 300 grams of heroin is not effected from the possession of the petitioner. He also argues for grant of bail on account of false implication supported by the fact that Investigating Officer namely ASI Angrej Singh himself is behind bars in an FIR No.90 dated 25.07.2022, registered at Police Station Cantt. Ferozepur under Sections 166, 167, 195, 471, 218 & 120-B of IPC and Sections 21 & 29 of NDPS ACT, Section 13 of Prevention of Corruption Act, 1988 (Annexure P-2).

3. It is also asserted before this Court that once the petitioner came to know about his implication in the instant FIR, he made a representation immediately to the District Magistrate, Ferozepur alongwith his mobile number and that of his brother, submitting that both of them were at their home on the date and time, when the alleged occurrence took place.

4. 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 1 year, 6 months and 17 days. He prays for dismissal of the instant petition on the ground that the petitioner is involved in two other cases, wherein in one FIR No.75 dated 25.06.2022, registered at Police Station Cantt, Ferozepur under Section 25 of Arms Act, he stands acquitted.

5. Looking into the totality of facts and conduct of the Investigating Officer, which is tainted in the light of FIR (Annexure P-2) registered against him and on an admitted fact that recovery was not effected from the physical/conscious possession of the petitioner, no useful purpose would be served by keeping him 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".

6. As far as pendency of other case is concerned, this Court in various judgments has already 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 is not material for the instant FIR.

7. In light of the 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.

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.

09.01.2024

(SANDEEP MOUDGIL)
JUDGE

Meenu

Whether speaking/reasoned Yes/No

Whether reportable Yes/No