

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

214

CRM-M-2002-2023 (O&M)

Date of Decision: 18.05.2023

RAJBIR SINGH @ CHHOTU

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. SS Gill, Advocate
for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

HARNARESH SINGH GILL, J.(Oral)

The petitioner has filed this 4th petition for grant of regular bail in case bearing FIR No.51 dated 29.01.2020, registered under Sections 15, 27-A and 29 of the NDPS Act, at Police Station Sadar Thanesar, District Kurukshetra.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that, though, the alleged recovery of 135 kg poppy straw was effected from a truck, being driven by the petitioner, yet the fact remains that the petitioner is not the owner of the said truck; that out of three accused, one has already been enlarged on bail; that the challan has been presented; that most of the prosecution witnesses are yet to be examined; that the petitioner has been in custody since 01.02.2020 and that there is no other case against the petitioner.

In support of his contentions, learned counsel for the petitioner relies upon the order dated 25.01.2023 passed by the Hon'ble

Apex Court in Special Leave to Appeal (Crl.) No.6690-2022 titled as 'Dheeraj Kumar Shukla vs. State of Uttar Pradesh'.

Per contra, while opposing the prayer for grant of regular bail to the petitioner, learned State counsel does not dispute the custody period of the petitioner. He, however, submits that the recovery effected in the present case falls under the commercial quantity and that Section 37 NDPS Act bars the grant of bail to the accused in the case of commercial quantity. He further submits that the petitioner was apprehended, while driving the truck, from which the recovery was effected and that the material witnesses are yet to be examined and thus, the petitioner does not deserve the concession of regular bail.

I have heard the learned counsel for the parties.

Though the recovery allegedly effected in the present case falls under the commercial quantity, yet the fact remains that the petitioner has been in custody since 01.02.2020. Most of the prosecution witnesses are yet to be examined. In such circumstances, trial of the case would take a long time to conclude. There is no other case registered and/or pending against the petitioner. Co-accused has already been enlarged on bail.

The Hon'ble Apex Court in Dheeraj Kumar Shukla's case (supra) has held as under:-

'3. It appears that some of the occupants of the 'Honda City' Car including Praveen Maurya @ Puneet Maurya have since been released on regular bail. It is true that the quantity recovered from the petitioner is commercial in nature and the provisions of Section 37 of the Act may ordinarily be attracted. However, in the

absence of criminal antecedents and the fact that the petitioner is in custody for the last two and a half years, we are satisfied that the conditions of Section 37 of the Act can be dispensed with at this stage, more so when the trial is yet to commence though the charges have been framed.

4. For the reasons stated above but without expressing any views on the merits of the case, the petitioner is directed to be released on bail subject to his furnishing bail bonds to the satisfaction of the Trial Court.

5. It is made clear that in addition to the conditions that may be imposed by the Trial Court, the petitioner shall be required to appear before the Trial Court on every date of hearing. In case the petitioner is found to be involved in future in any other similar case, the respondent – State shall be at liberty to seek cancellation of bail granted to him by this Court.

6. The Special Leave Petition stands disposed in the above terms.....'.

In view of the above and without commenting anything on the merits of the case, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

18.05.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

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