

CRM-M-5695-2023

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-5695-2023

Date of decision: 20.07.2023

Gurmeet Singh

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Amjad Khan, Advocate,
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

1. Through this fourth petition (the earlier three having been dismissed as withdrawn on 07.08.2020, 01.09.2021 and 27.04.2022), the petitioner seeks regular bail in case bearing FIR No.193 dated 15.11.2019, registered at Police Station Barnala, District Barnala, under Sections 22, 25 and 29 NDPS Act and Section 21 NDPS Act (added later on).

2. Learned counsel for the petitioner contends that recovery of intoxicating tablets had allegedly been effected from dicky of a vehicle; that although the recovery effected in the present case, falls under the commercial quantity, yet the fact remains that the petitioner has been in custody since 15.11.2019 and that out of 15 prosecution witnesses, only 05 witnesses have been examined so far. It is further submitted that co-accused-, namely, Sunny who was arrested alongwith the petitioner, has since been granted the concession of regular bail by a Coordinate Bench,

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vide order dated 29.01.2021 (Annexure P-5). So far as another case registered against the petitioner, under the NDPS Act, is concerned, he has been acquitted therein. In support of his contentions, learned counsel for the petitioner relies upon the orders 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' and dated 04.05.2023, passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No (s).3221/2023, titled as 'Hasanujjaman & Ors Vs. The State of West Bengal'.

3. On the other hand, learned State counsel, while opposing the grant of the bail to the petitioner, submits that a huge quantity of intoxicating tablets had been recovered from the petitioner; that Section 37 NDPS Act bars the grant of bail to the accused in case of commercial quantity and that material prosecution witnesses are yet to be examined.

4. I have heard the learned counsel for the parties.

5. Indisputably, the recovery effected in the present case, falls under the commercial quantity, but the fact remains that the petitioner has been in custody since 15.11.2019 and that out of 15 prosecution witnesses, only 05 witnesses have been examined so far. Trial is unlikely to conclude any time soon.

6. 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

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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.....'.

7. The Hon'ble Supreme Court in Hasanujjaman & Ors.(supra), while granting the benefit of bail to the petitioners therein, has held as under:

“2. The allegations are that when the police party intercepted the petitioners along with another person riding on two motorcycles, they were found in possession of codeine phosphate in a consignment of phensedyl bottles loaded in two nylon bags. During the search, 115 bottles (100 ml. each) of phensedyl were recovered from the joint possession of the petitioners. They were arrested on the spot and have been in custody for more than one year and four months.

3. We have heard learned counsel for the parties and carefully perused the record.

4. The investigation is complete; chargesheet has been filed, though the charges are yet to be framed. The conclusion of trial will, thus, take some reasonable time, regardless of the direction issued by the High Court to

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conclude the same within one year from the date of framing of charges. The petitioners do not have any criminal antecedents. There is, thus, substantial compliance of Section 37 of the NDPS Act.

5. *In such circumstances, but without expressing any views on the merits of the case, we deem it appropriate to release the petitioners on bail subject to the terms and conditions as may be imposed by the Trial Court.*

6. *Additionally, it is clarified that in case the petitioners are found involved in any other case under the NDPS Act or other penal law, it shall amount to misuse of the concession of bail granted to them today, and in such a case, necessary consequences shall follow.*

7. *The petitioners are further directed to appear before the Trial Court regularly. In the event of they being absent, it shall again be taken as a misuse of concession of bail.*

8. *The Special Leave Petition stands disposed of in the above terms.*

9. *As a result, pending interlocutory application also stands disposed of.”*

8. In view of the above, this Court finds that no useful purpose would be served by keeping the petitioner behind the bars. Resultantly, without commenting anything on the merits, 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 and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

20.07.2023

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No