

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

CRM-M-7720-2023

Date of Decision: 06.07.2023

Ram Lal

...Petitioner

vs.

Union of India

...Respondents

Coram : **Hon'ble Mr. Justice N.S.Shekhawat**

Present : Mr. Ravinder Malik (Ravi), Advocate
 for the petitioner.

Mr. Sourabh Goel, Central Govt. counsel for NCB.

N.S.Shekhawat J. (Oral)

The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.72 dated 22.12.2020 registered under Sections 8, 18, 27-A, 28, 29 & 60 of NDPS, 1985 at Police Station Narcotics Control Bureau, Chandigarh (Annexure P-1).

The complaint was lodged in the present case against the petitioner and the others on the ground that on 21.12.2020, a secret information was received by Surveillance Assistant that one person, namely, Hardeep Singh S/o Ajeib Singh, was involved in the opium smuggling and he had taken a huge quantity of opium from a person of Jharkhand on 14.12.2020 and was bringing the consignment in his truck bearing registration No. HR-74-A-6942. A team of NCB officials was constituted and at about 5.15 am, on 22.12.2020, a truck having registration No. HR-74-A-6942 was signaled to stop at the side of road

and two persons were noticed sitting in the truck. The truck was taken into possession and on asking, the truck driver disclosed his name Ram Lal son of Kura Ram and the other person disclosed his name Hardeep Singh son of Ajeib Singh, owner of the truck. On search of the truck, 9 kg of opium was recovered from the tool box of the said truck. With these broad allegations, the prosecution of the petitioner and his co-accused was initiated.

Learned counsel for the petitioner contends that the petitioner was only the driver of the truck, which was admittedly owned by Hardeep Singh, co-accused and has been falsely involved in the present crime. He further contends that the petitioner was not aware of the presence of the contraband in the tool box of the truck and was working as a paid driver on the vehicle. He further contends that the statement of the petitioner and his co-accused were recorded under Section 67 of the NDPS Act and the same would reveal that the petitioner was simply a truck driver, in which the alleged contraband was being transported by Hardeep Singh, co-accused. Apart from the present case, there is no other case against the petitioner and he is in custody since 22.12.2020 i.e. almost 02 years and 07 months. Learned counsel further contends that the petitioner is having 80% disability and is the only bread earner of the family. He further contends that even though he was arrested about 02 years and 06 months ago, still the charges are yet to be framed by the learned trial Court. Learned counsel for the petitioner has relied upon the law laid down of the Hon'ble Supreme Court in the matter of SLP No. 6690 of 2022, titled as **“Dheeraj Kumar Shukla Vs. State of Uttar Pradesh”**, in which the Hon'ble Supreme Court held as follows:-

“2. The allegations are that on a secret information, the police authorities intercepted two vehicles on 23.06.2020 i.e. one 'Gray' coloured 'Honda City' car and the second 'White' coloured 'Swift Dzire' car. On an interrogation at the spot, Praveen Maurya @ Puneet Maurya, Rishab Kumar Maurya and Dheeraj Kumar Shukla were found to be occupants of the 'Honda City' car whereas the petitioner was driving the 'Swift Dzire' car. On taking a search, more than 92 kgs. Ganja was allegedly recovered from 'Honda City' car where as more than 65 kgs. Ganja was recovered from 'Swift Dzire' Car. The accused were arrested at the spot. The petitioner is, thus, in custody since 24.06.2020.

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.”

Learned counsel appearing for the respondent has vehemently opposed the grant of concession of bail to the present petitioner on the ground that the quantity of contraband recovered from the present petitioner is commercial in nature. He further contends that the petitioner was aware of the fact that the alleged contraband was being transported in the vehicle, which was being driven by him.

I have heard the learned counsel for the parties and with their assistance, I have gone through the record of the case.

No doubt, the quantity recovered from the petitioner is commercial in nature and the stringent provisions of Section 37 of the NDPS Act would apply to the facts of the instant case. However, it is evident that the petitioner is in custody for the last more than 2 and a half years and even the trial is yet to formally commence as the next date of hearing is fixed on 02.08.2023 for framing of charges.

Consequently, keeping in view the above stated facts and the law laid down by the Hon'ble Supreme Court in the matter of **Dheeraj Kumar Shukla's case** (Supra) , the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

It is made clear that the petitioner shall appear before the learned trial Court on each and every date of hearing. In case, the petitioner is found involved in future in any other similar case, the respondent shall at liberty to move an application for cancellation of bail granted to the petitioner by this Court. Apart from that, the present petitioner is directed to report to SHO, Police Station, City Karnal, on every first Monday of English calender month and his presence shall be marked in the roznamcha of the said police station.

06.07.2023

hemlata

(N.S.SHEKHAWAT)
JUDGE

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