

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

(207)

CRM-M-13161-2023 (O&M)  
Date of decision:- 25.05.2023

Sandeep Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Dr. (Mr. ) Rau P.S.Girwar, Advocate for the petitioner.

Mr. Rohit Bansal, Senior DAG, Punjab for State-respondent.

\*\*\*\*\*

SUVIR SEHGAL, J. (ORAL)

1. This is the fourth petition filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of post-arrest bail in:-

| FIR No. | Dated      | Police Station                   | Sections                                                                                         |
|---------|------------|----------------------------------|--------------------------------------------------------------------------------------------------|
| 138     | 11.11.2020 | Sadar Rampura, District Bathinda | 22 (c) and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”) |

2. Case of the prosecution is that when a police party was on routine patrolling, they intercepted a motor-cyclist on suspicion, who panicked when he saw them. His motorcycle slipped and a plastic bag, which he was carrying opened revealing tablets. It was found that he was carrying 600 strips of Radol-100 (Tramadol).

3. Counsel for the petitioner contends that the petitioner has been falsely implicated and is in custody since the date of arrest, i.e., 16.11.2020. He submits that despite the fact that charge was framed on 24.02.2021, trial is at an initial stage. Counsel has placed reliance upon the judgments of the Supreme Court in *SLP (Crl) No.6690 of 2022* titled as *Dheeraj Kumar Shukla Versus The State of Uttar Pradesh*, decided on 25.01.2023 and *Special Leave to Appeal (Crl.) No.1166 of 2023* titled as *Chet Ram @ Ram Veer Versus Union of India*, decided on 15.03.2023 to assert that as the petitioner has a clean past, he deserves to be set free from detention.

4. *Per contra*, State counsel, upon instructions received from SI, Harbans Singh, has opposed the petition and has submitted that the petitioner is the owner of the intercepted motorcycle and intoxicating tablets recovered fall within the ambit of commercial quantity. It is his arguments that the bar under Section 37 of the NDPS Act is attracted and the petitioner is not entitled to be released on bail. Upon further instructions, he submits that two prosecution witnesses have been examined-in-chief and five witnesses have been given up, out of the total of thirteen prosecution witnesses.

5. I have considered the submissions made by counsel for the parties.

6. In *Dheeraj Kumar Shukla's* case (supra), it has been held as under:-

“3. .... 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.”*

7. As per Custody Certificate dated 23.05.2023 filed by the State counsel, petitioner has undergone a custody of more than thirty months. Trial is barely half way and the petitioner, who has clean antecedents, in the opinion of the Court, deserves to be enlarged on bail as he satisfies the parametres laid down by the Supreme Court in ***Dheeraj Kumar Shukla's*** case (supra).
8. Without adverting to the merits or demerits of the arguments addressed, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.
9. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)  
JUDGE

25.05.2023  
Kamal

|                           |        |
|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |