

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CRM-M-12387 of 2022
DATE OF DECISION:-10.02.2023

Pushpinder Sehdev

...Petitioner

vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Yashpal Thakur, Advocate, for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

HARKESH MANUJA, J.

By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973, petitioner prays for grant of regular bail pending trial in case FIR No.143 dated 23.10.2019 under Sections 22,25,61,85 NDPS Act, registered at Police Station Doraha, District Ludhiana (Annexure P-1).

Learned counsel for the petitioner submits that investigation in the present case already stands concluded with the filing of challan on 18.04.2020, followed by framing of charges on 12.02.2021 and even after expiry of almost 2 years, none of the witnesses cited by the prosecution has been examined so far. Learned counsel further submits that there is no other case of similar nature pending against the petitioner, thus, the prayer has been made for grant of regular bail to the petitioner.

On the other hand, learned State counsel opposes the prayer made herein while submitting that recovery in the present case is of heavy quantity and as such, the petitioner does not deserve the concession of regular bail.

I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

It needs to be taken into consideration that petitioner has already remained behind the bars for almost 3 years and not even a single witness out of 19 witnesses cited by the prosecution has been examined so far. As no other case of similar nature is pending against the petitioner, there would be no justification to extend the incarceration of the petitioner and thus, petitioner deserves the concession of regular bail. The observation made by the Hon'ble Supreme Court in case of **Dheeraj Kumar Shukla Vs. The State of Uttar Pradesh**, passed in Special Leave to Appeal (Crl.) No(s).6699/2022, are of much relevance and importance. The relevant para No.3 is reproduced hereunder:

“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.”

For the reasons stated hereinabove but without expressing any views on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate.

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 any other similar case in future, the respondent-State shall be at liberty to seek cancellation of bail granted to him by this Court.

10.02.2023.
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No