

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

CRM-M-12613-2022

Date of Decision: 20.11.2023

Raj Singh alias Raju

...Petitioner

vs.

State of Punjab

...Respondent

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

Present : Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail to him in case FIR No.40 dated 06.04.2021 registered under Section 21 of NDPS Act, 1985 and Section 23 of NDPS Act added later on, at Police Station Sadar Ferozepur, District Ferozepur.

2. As per case of the prosecution, on receipt of a secret information, a raid was conducted and 110 grams of heroin was recovered from the present petitioner. Later on, he suffered a disclosure statement and another recovery of 7 kgs of heroin has been effected from him.

3. Learned counsel for the petitioner contends that he has been falsely involved in the present case. He next contends that in the present case, mandatory provisions of relating to search and seizure have not been followed by the police. He further contends that the petitioner and his family were being harassed by the police since 2019 and a representation was also submitted to

SSP, Ferozepur and DGP, Punjab on 24.10.2019 by Jagir Kaur, wife of the petitioner. Learned counsel submitted that the petitioner was arrested in the present case on 06.04.2021 and is in custody since then. Learned counsel for the petitioner has relied upon the law laid down by 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.

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.”

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the quantity of contraband recovered from the petitioner is commercial in nature and the rigors of Section 37 of NDPS Act would apply to the facts of the present case. However, learned State counsel admits that there is no other criminal case against the present petitioner.

5. I have heard learned counsel for the parties and perused the record.

6. From the record, it is evident that the petitioner was arrested in the present case on 06.04.2021 and is in custody for the last about 02 years and 7 months. There is no other criminal case against him. Apart from that, it has also been brought to the notice of the Court that the Investigating Officer of this case and the members of the police team, which had effected recovery from the present petitioner, are behind bars for certain illegal acts committed by them.

7. 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, subject to the following conditions:-

- (i) *The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*

- (iii) *The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) *In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*
- (vii) *The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.*
- (viii) *The petitioner shall report every 1st Monday of English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.*

8. The trial Court is directed to expedite the trial proceedings.

(N.S.SHEKHAWAT)
JUDGE

20.11.2023
hemlata

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