

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

202

CRM-M-13798 of 2022
Date of decision:19.04.2023

Vakil Singh alias Baggi

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. G.S.Sandhu, Advocate
for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

SUVIR SEHGAL, J. (Oral)

1. This is the fourth petition filed under Section 439 Cr.P.C., seeking grant of regular bail to the petitioner in:-

FIR No.	Dated	Police Station	Sections
0019	13.02.2020	Arniwala, District Fazilka	22, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”)

2. Version of the prosecution is that FIR (Annexure P-1) has been registered when a motorcycle with two riders was intercepted. The driver of the motorcycle, who was a male, ran away from the spot and the lady, who was sitting on the pillion, cooperated with the search. Recovery of 3000 intoxicant tablets containing 1200 grams (approx.) of Tramadol was effected

from the plastic bag tied on the motorcycle. The lady, who was arrested on the spot was Jyoti @ Mannu wife of Vakil Singh @ Baggi (present petitioner), who was driving the motorcycle.

3. Counsel for the petitioner urges that petitioner has been falsely framed and no recovery has been effected from the spot as has been alleged. He submits that petitioner has been arrested on the disclosure statement of his wife and is in custody since 16.02.2020. He has placed reliance upon the judgment of Hon'ble Supreme Court in **SLP (Crl.) No(s).6690 of 2022 titled as Dheeraj Kumar Shukla Vs. The State of Uttar Pradesh, decided on 25.01.2023** and submits that as the petitioner is not involved in any offence under the NDPS Act, he deserves to be enlarged on bail.

4. Opposing the petition, State counsel has filed an affidavit dated 17.04.2023 of Senior Superintendent of Police, Fazilka, which is taken on record. Upon instructions from Inspector Angrej Kumar, he submits that 04 out of total 14 prosecution witnesses, have been examined and one of the summoned official witness, who did not appear before the Trial Court, has been proceeded against departmentally. He submits that the trial is fixed for 04.08.2023 and an application for preponement has been rejected by the Special Court. On the basis of custody certificate, he submits that petitioner is named as an accused for offence under the Prisons Act.

5. I have heard counsel for the parties.

6. Hon'ble Supreme Court in **Dheeraj Kumar Shukla's case (supra)** has held as under:-

“....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 through the charges have been framed.”

7. Not only the petitioner is in custody for the last more than 38 months, trial is at a nascent stage and besides FIR under the Prisons Act, petitioner does not have any criminal past. In view of these factors, this Court is inclined to accept the prayer made in the petition.

8. Without advertng to the merits or demerits of the arguments addressed, petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

April 19, 2023

savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No