

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-13859-2023 (O&M)

Date of decision: 24.07.2023

Ashok Bhardwaj

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Ms. Puja Chopra, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Through this second petition (the first one having been dismissed as withdrawn on 02.03.2022), the petitioner seeks regular bail in case bearing FIR No.95 dated 07.02.2021, registered at Police Station Sector 7, District Faridabad, under Sections 22(c) NDPS Act, 1985 and Sections 18-C and 18-A Drugs and Cosmetics Act, 1940.

Learned counsel for the petitioner contends that the petitioner, who had been working in a chemist shop, has falsely been implicated in the present case; that though the recovery effected in the present case falls under the commercial quantity but the fact remains that a false recovery of intoxicating tablets had been planted upon the petitioner and that in fact, no recovery had been effected from the petitioner in pursuance of his confessional statements dated 07.02.2021 and 09.02.2021; that the petitioner has been in custody since 07.02.2021 i.e. 02 years, 05 months and 17 days; that out of 15 prosecution witnesses, only 03 witnesses have been examined so far and that there is no other pending or registered case against the

petitioner under the NDPS Act.

In support of her case, learned counsel for the petitioner relies upon the orders dated 25.01.2023, passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No(s).6690/2022, titled as 'Dheeraj Kumar Shukla Vs. State of Uttar Pradesh'.

Per contra, while opposing the prayer for grant of regular bail to the petitioner, learned State counsel does not dispute the custody period of the petitioner and the fact that the petitioner is not involved in any other case under the NDPS Act. She, however, submits that the recovery effected from the petitioner falls under the commercial quantity and that Section 37 of the NDPS Act bars the grant of bail to the accused in case of commercial quantity. She further submits that the material witnesses are yet to be examined.

I have heard the learned counsel for the parties.

Though the recovered contraband in the present case, falls under the commercial quantity, yet the fact remains that the petitioner has been in custody for the last more than 02 years, 05 months and 17 days and that 12 prosecution witnesses are yet to be examined. In such circumstances, trial of the case would take a long time to conclude. There is no other case under the NDPS Act registered or pending against the petitioner. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

The Hon'ble Apex Court in 'Dheeraj Kumar Shukla's case (supra) has held as under:

'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.

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

6. The Special Leave Petition stands disposed in the above terms.....'.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

24.07.2023
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No