

CRM-M-20062-2023 (O&M) -1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

(202) CRM-M-20062-2023 (O&M)  
Date of decision:- 28.04.2023

Deep Singh ... Petitioner  
Versus  
State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Chandan Singh Rana, Advocate for the petitioner.  
Mr. Rohit Bansal, Senior DAG, Punjab for State-respondent.

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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                                                                              |
|---------|------------|---------------------------------|---------------------------------------------------------------------------------------|
| 97      | 07.08.2020 | Sadar Rajpura, District Patiala | 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”) |

2. Case of the prosecution is that FIR, Annexure P-1, has been registered when, on suspicion, a car was intercepted and two youth were apprehended. Recovery of 250 strips of Clovidol was made from Jasvir Singh, who was driving the car and Deep Singh, present petitioner, who was sitting on the navigator seat.

3. Counsel for the petitioner contends that the petitioner is in custody since the date of arrest and the trial is not progressing. He submits

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that although recovery of contraband effected from the petitioner falls within the ambit of commercial quantity, but in terms of the judgment 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, petitioner deserves to be released on bail as he is not involved in any other criminal case lodged against him for offence under the NDPS Act.

4. *Per contra*, learned State counsel has opposed the petition and has submitted that bar under Section 37 of the NDPS Act is attracted. Upon instructions received from ASI, Sukhwant Singh, he submits that five witnesses have been examined, although, twelve have been named in the challan filed by the prosecution.

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

6. A perusal of the Custody Certificate dated 26.04.2023, which has been filed by the State counsel, shows that the petitioner is involved in an FIR registered against him for minor offences under IPC.

7. Hon'ble Supreme Court in ***Dheeraj Kumar Shukla's*** case (supra) has 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.”

8. Keeping in view the incarceration of the petitioner, which by now is more than thirty two months, stage of the trial and that the petitioner is not involved for any other case of dealing in narcotic or psychotropic substance, this Court has no hesitation in accepting the prayer made in the petition.
9. 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.
10. 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

28.04.2023  
*Kamal*

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