

219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23850-2022

Date of Decision: 17.11.2023

Gurpreet Singh @ Rinku

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Arshdeep Singh Brar, 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.84 dated 17.06.2021 registered under Sections 21, 29 of NDPS Act (Section 31 NDPS Act and Section 420, 473, 482 IPC added later on), at Police Station STF Mohali District, SAS Nagar.

2. As per case of the prosecution, the Incharge, Special Task Force alongwith other police officials were present and the petitioner alongwith his co-accused Daljit Singh @ Michael were arrested by the police. From the personal search of the petitioner, 330 grams of heroin was recovered from the parna, which he tied on the face.

3. Learned counsel for the petitioner contends that the petitioner was arrested in the present case on 17.06.2021 and is in custody for the last about 2 years and 5 months. 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. Learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that 330 grams of heroin was recovered from the present petitioner.

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

6. No doubt, the quantity recovered from the petitioner is commercial in nature and the stringent provisions of Section 37 of the NDPS Act would apply to the facts of the instant case. However, it is evident that the petitioner is in custody for the last more than 2 years and 5 months.

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.

(N.S.SHEKHAWAT)
JUDGE

17.11.2023

hemlata

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