

CRM-M-21853-2023

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

CRM-M-21853-2023

Date of decision: 26.07.2023

Davinder Singh @ Vicky

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Satnam Singh Gill, Advocate,
for the petitioner.

Mr. Rupinder Singh Jhand, Addl. A. G. Haryana.

HARNARESH SINGH GILL, J. (ORAL)

1. Through this petition, the petitioner seeks regular bail in case FIR No.27 dated 14.01.2021, registered at Police Station Karnal Sadar, District Karnal, under Sections 18(c) and 25 NDPS Act.

2. Reply dated 24.07.2023 by way of affidavit of the Deputy Superintendent of Police, Traffic Karnal, filed in the Court today, is taken on record.

3. The frontal argument of learned counsel for the petitioner is that though recovery of 30 kg. 340 gm. opium was effected from the cabin of vehicle bearing registration No.PB-11-CJ-3377, which had been occupied by the petitioner being a driver and co-accused, namely, Darshan Singh being a conductor/owner, yet the fact remains that the aforesaid co-accused has since been granted the concession of regular bail by a Coordinate Bench, vide order dated 25.04.2023 and that the petitioner has suffered incarceration for a period of more than 02½ years. It is further submitted that the aforesaid vehicle is not owned by the petitioner; that out

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of 17 prosecution witnesses, 04 witnesses have been examined and that there is no other case registered or pending against the petitioner, at least of a similar nature.

4. On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that a huge quantity of contraband recovered from the vehicle, occupied by the petitioner and the co-accused, falls under the commercial quantity. It is further submitted that co-accused, namely, Shyam Lal and Bajrang Lal, who have been indicted on the disclosure statement, are yet to be arrested.

5. I have heard the learned counsel for the parties.

6. Indisputably, the petitioner has been in custody since 14.01.2021. The prosecution witnesses are yet to be examined. Trial is unlikely to conclude any time soon. There is no other case registered or pending against the petitioner, at least of a similar nature.

7. The petitioner claims bail on the ground of parity. The principle of parity is to be applied in granting bail to an accused, where co-accused has been bailed out on similar set of circumstances. In the present case, it transpires that case of the petitioner is identically similar to the co-accused, who has already been granted bail. Thus by applying the principle of parity, the petitioner is also entitled to be released on bail.

8. Moreover, 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' 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

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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.....'.

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

26.07.2023
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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