

222 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31200-2023

Date of Decision: 03.08.2023

Harpreet

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Jashandeep Singh Sandhu, 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 in case FIR No.250 dated 24.10.2019 registered under Section 22 of NDPS Act, 1985, at Police Station Canal Colony, District Bathinda.

2. As per story of the prosecution, while a police party was on patrolling duty, the present petitioner was apprehended by them and a bag containing intoxicant tablets was recovered from him. On counting the said tablets, it was found that the bag contained 14500 tablets of Clovidol-100 SR of batch No. TVD-19215 and 8000 tablets of Clovidol-100 SR of batch No.19217. As per the case of the prosecution, 'Tramadol Hydrochloride' was found in the tablets of Clovidol with an average weight of around 400 mg and the petitioner was ordered to be arrested on 24.10.2019.

3. Learned counsel for the petitioner contends that while making the said arrest, the proper procedure for search and seizure was not followed. Learned counsel further contends that even from the CCTV footage, which was taken by the father of the petitioner, it was proved that nothing was recovered from the petitioner and he was framed in a false case. He further contends that there is no other case against the present petitioner and he is the first offender. Learned counsel further contends that only four witnesses, out of total 14 witnesses, have been examined so far and the conclusion of the trial will take a long time.

4. On the other hand, learned State counsel has vehemently opposed the grant of concession of bail to the present petitioner on the ground that the quantity of the contraband recovered from the present petitioner is commercial in nature.

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

6. The Hon'ble Supreme Court has held in the matter of SLP No. 6690 of 2022, titled as **“Dheeraj Kumar Shukla Vs. State of Uttar Pradesh”** 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.”

7. No doubt that 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 from the custody certificate filed today that the petitioner is in custody for the last more than 3 years and 09 months and only four witnesses, out of total 14 witnesses, have been examined so far.

8. Thus, keeping in view the said 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.

9. It is made clear that the petitioner shall appear before the learned trial Court on each and every date of hearing, during the pendency of the trial. In case, the petitioner involves in future in any other similar case, the respondent shall at liberty to move an application for cancellation of bail

granted to the petitioner by this Court. Apart from that, the present petitioner is directed to report to SHO, Police Station, Canal Colony, District Bathinda, on every first Monday of English calender month and his presence shall be marked in the roznamcha of the said police station.

03.08.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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