

CRM-M-35818-2022 -1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(207) CRM-M-35818-2022
Date of decision:- 07.07.2023

Jaswinder Singh @ Kala ... Petitioner
Versus
State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ruhani Chadha, Advocate
for the petitioner.

Mr. Arun Luthra, DAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. Mr. Ruhani Chadha, Advocate has put in appearance on behalf of the petitioner and has filed his Power of Attorney with no objection from the previous counsel, which is taken on record.
2. Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
0035	02.03.2021	STF, SAS Nagar	21 (c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”) (later on Section 29 of the NDPS Act was added)

3. FIR, Annexure P-1, has been registered when on the basis of secret information, Ramesh Kumar, who was alleged to be indulging in the

sale of intoxicating substance, was apprehended and recovery of 280 grams of *heroin*, a Samsung mobile and Rs.200/-, in cash, was effected from him.

4. Counsel for the petitioner contends that the petitioner has been arraigned as an accused on the basis of disclosure statement of the main accused and no recovery has either been effected from him or at his behest. Still further, he submits that at the time of registration of FIR, Annexure P-1, petitioner was in custody in FIR No.19 dated 20.12.2020, registered for offences under Sections 21, 22, 23-C, 24, 25 and 29 of the NDPS Act at Police Station SSOC, Amritsar. It is his specific case that petitioner has been falsely implicated and his father-in-law had moved a representation, Annexure P-2, apprehending false implication. Still further, he submits that the petitioner, who is in custody since 11.03.2021, deserves to be enlarged on bail as the trial is at an initial stage.

5. Opposing the petition, State counsel, upon instructions received from SI, Anokh Singh, submits that as commercial quantity of contraband has been recovered, the bail petition, preferred by the petitioner, is hit by Section 37 of the NDPS Act. He submits that the petitioner does not enjoy clean antecedents as another case under the NDPS Act is pending against him. As per his instructions, charge was framed in June, 2022 and one prosecution witness has been partly examined. He is not in a position to deny that no recovery has been effected from the petitioner in the present case.

6. I have heard counsel for the parties and considered their respective submissions.

7. Petitioner is languishing in custody for the last more than twenty seven months and the trial is at a nascent stage. Although, he is involved in another criminal case under the NDPS Act, but in view 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 as well as *Special Leave to Appeal (Crl.) No.1166 of 2023* titled as *Chet Ram @ Ram Veer Versus Union of India*, decided on 15.03.2023, this Court is of the view that considering the length of custody and that no recovery has been effected from him, petitioner deserves to be enlarged on bail.
8. 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/Trial Court concerned.
9. 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

07.07.2023
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No