

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

207

CRM-M-35751-2022 (O&M)

Date of Decision: 22.05.2023

SUKHJINDER SINGH @ SUKHA

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Arshdeep Singh Brar, Advocate
for the petitioner.

Mr. Kunal Muthreja, AAG, Punjab.

HARNARESH SINGH GILL, J.(Oral)

CRM-2720-2023

With no objection from the learned State counsel, the present application is allowed, as prayed for.

Annexures P-4 to P-16 are taken on record, subject to all just exceptions.

Registry is directed to tag the same at an appropriate place,

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Through this second petition, the petitioner seeks regular bail in case bearing FIR No.33 dated 06.04.2021, registered at Police Station Sadar Moga, District Moga, under Section 22 of the NDPS Act, the first one having been dismissed as withdrawn on 15.12.2021.

Status report by way of an affidavit dated 20.05.2023 of the Superintendent of Police (City), Moga, District Moga, filed on behalf of

the respondent-State, in the Court, is taken on record. Copy thereof has been supplied to the learned counsel opposite.

Learned counsel for the petitioner submits that the petitioner has been in custody since 06.04.2021; that the alleged recovery of commercial quantity contraband was effected from a car, being driven by the petitioner; that there is no other case registered and/or pending against the petitioner and that 10 prosecution witnesses are yet to be examined. He further submits that post arrest of co-accused, namely, Lovepreet Singh and presentation of supplementary challan qua him, de novo trial will commence.

In support of his contentions, learned counsel for the petitioner relies upon the order dated 25.01.2023 passed by the Hon'ble Apex Court in Special Leave to Appeal (Crl.) No.6690-2022 titled as 'Dheeraj Kumar Shukla vs. State of Uttar Pradesh' and order dated 22.08.2022 passed in Special Leave to Appeal (Crl.) No.5530-2022 title as Mohammad Salman Hanif Shaikh vs State of Gujarat.

Per contra, while opposing the prayer for grant of regular bail to the petitioner, learned State counsel does not dispute the custody period of the petitioner. He, however, submits that the recovery effected in the present case falls under the commercial quantity and that Section 37 NDPS Act bars the grant of bail to the accused in the case of commercial quantity. He further submits that material prosecution witnesses are yet to be examined and thus, the petitioner does not deserve the concession of regular bail.

I have heard the learned counsel for the parties.

Though the recovery allegedly effected in the present case falls under the commercial quantity, yet the fact remains that the petitioner has been in custody since 06.04.2021. Most of the prosecution witnesses are yet to be examined. In such circumstances, trial of the case would take a long time to conclude. There is no other case registered and/or pending against the petitioner.

The Hon'ble Apex Court in Dheeraj Kumar Shukla's case (supra) 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 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.....'.*

In view of the above and without commenting anything on the merits of the case, 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/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

22.05.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No