

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(221)

CRM-M-35177-2023
Date of decision:- 08.11.2023

Lakhwinder Singh @ Lakha ... Petitioner
Versus
State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Rajwinder Kaur Sandhu, Advocate
for the petitioner.

Mr. A.P.S.Tung, DAG, Punjab.
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

1. This is the sixth petition filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Section
0214	25.09.2019	Lambi, District Sri Muktsar Sahib	22 of the NDPS Act

2. As per the case of the prosecution, FIR, Annexure P-1, has been registered on the allegation that two persons were intercepted and recovery of 196 strips containing 10 tablets each of *Tramadol Hydrochloride* were recovered from them. The said persons identified themselves as Lakhwinder Singh @ Lakha (present petitioner) and Gora Singh, who were arrested at the spot.

3. Counsel for the petitioner has submitted that the petitioner has been falsely framed and he has no connection with the co-accused. Reliance

has been placed by him upon order dated 14.09.2021, Annexure P-4, whereby co-accused, Gurlal Singh @ Gora Singh, has been granted the concession of regular bail. Counsel submits that although petitioner is named as an accused in another criminal case registered under the NDPS Act, but as he is languishing in custody since 25.09.2019 and prosecution has failed to conclude the evidence, he is entitled to be released on bail. Counsel has placed reliance upon the judgments of the Supreme Court in ***Dheeraj Kumar Shukla Versus The State of Uttar Pradesh, 2023 SCC Online SC 918*** and ***Special Leave to Appeal (Crl.) No.1166 of 2023*** titled as ***Chet Ram @ Ram Veer Versus Union of India***, decided on 15.03.2023.

4. *Per contra*, State counsel, upon instructions from ASI, Jaskaran Singh, has opposed the petition and has filed Custody Certificate dated 07.11.2023, which is taken on record. He has highlighted the criminal past of the petitioner and argues that rigor of Section 37, NDPS Act apply and the petitioner cannot be granted bail. As per his specific instruction, four out of thirteen prosecution witnesses have been examined.

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

6. In ***Dheeraj Kumar Shukla's*** case (supra), it has been held as under:-

“3. 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. In **Chet Ram @ Ram Veer** case (supra), Hon’ble Supreme Court released the accused on bail after he had undergone three and a half year of custody, after noticing that he was an accused in another FIR under the NDPS Act. In so far as the present petitioner is concerned, he is in custody for the last more than forty nine months and there is a remote possibility of an early conclusion of trial.
8. This Court is, therefore, satisfied that the case of the petitioner will fall within the four corners of the observations made by the Apex Court in the above noticed judgments. Noticing the nature of allegations levelled against the petitioner, the stage of the proceedings and the length of detention, this Court is inclined to accede to the prayer made in the petition.
9. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, 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.
10. Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

08.11.2023

Kamal

(SUVIR SEHGAL)
JUDGE

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