

104+225 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-36225-2023,
CRM-31269-2022 in/and
CRM-M-38561-2022
Date of Decision: 12.12.2023

Amarjit Singh alias Simmi ...Petitioner

vs.

State of Punjab ...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Yashpal Thakur, Advocate
for the petitioner.

Mr.M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

CRM-36225-2023

1. Application is allowed as prayed for. Annexures P-5 and P-6 are taken on record.

CRM-31269-2022

1. The instant application has been filed under Rule 3-A (1) Chapter VI, Part-B, Vol. V of the Punjab and Haryana High Court Rules and Orders for grant of leave to file the present petition.

2. Application is allowed, as prayed for.

CRM-M-38561-2022

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.40 dated 29.06.2021, registered under Sections 22, 25, 29, 61, 85 of NDPS Act, at Police Station Sehna, District Barwala.

2. The FIR in the present case was registered on the basis of the statement made by Rajwant Singh, Inspector. As per him, on 29.06.2021, a police party headed by him was present at main Bus Stand, Sehna. At about 8.45 p.m., a secret informer came and informed that Amarjit Singh alias Simmi alongwith his brother Harminder Singh were coming in his Zen Car and were going to Sehna for selling intoxicant tablets in very heavy quantity. On getting the information, a naka was set up and Amarjit Singh @ Simmi was found in the car and total 50,000/- intoxicant tablets of Celcidol 100-SR were recovered from him. Apart from that, Rs.43,000/- drug money was also recovered from the dashboard of the car and the petitioner was ordered to be arrested on the spot.

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner has been falsely involved in the present case. He further contends that the mandatory provisions of Section 42 of NDPS Act have not been complied with in the present case. Even the procedure relating to search and seizure was not followed by the police officials. He further contents that the petitioner was arrested in the present case on 29.06.2021 and is in custody for the last more than 2 years and 5 months. Learned counsel for the petitioner has relied upon the law laid down by the Hon'ble Supreme Court in the matter of SLP No. 6690 of 2022, titled as **“Dheeraj Kumar Shukla Vs. State of Uttar Pradesh”**, in which the Hon'ble Supreme Court held 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 Shuk

la 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.

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.”

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the quantity of contraband recovered from the petitioner is commercial in nature and the rigors of Section 37 of NDPS Act would apply to the facts of the present case. However, learned State counsel admits that there is no other criminal case against the present petitioner.

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

6. From the record, it is evident that the petitioner was arrested in the present case on 29.06.2021 and is in custody for the last about 02 years and 5 months. There is no other criminal case against him.

7. Consequently, keeping in view the above stated 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, subject to the following conditions:-

- (i) *The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) *In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a*

- petition for cancellation of bail granted to him.*
- (vii) *The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.*
- (viii) *The petitioner shall report every 1st and 3rd Monday of English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st and 3rd Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.*

12.12.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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