

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-40606-2022 (O&M)
Date of decision: 12.07.2023

Arun Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Sandeep Arora, Advocate for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks regular bail in case bearing FIR No.1 dated 01.01.2020, under Section 22 of the NDPS Act, registered at Police Station Sadar Phagwara, District Kapurthala.

Learned counsel for the petitioner submits that the petitioner has falsely been involved in the present case; that the petitioner was granted interim bail, which he never misused; that the petitioner had surrendered back in time; that though the recovery of 990 intoxicant tablets (Tramadol Hydrochloride) effected from the petitioner is of commercial quantity but the fact remains that the petitioner has been in custody since 01.01.2020 i.e. for the last more than 02 years and 07 months; that out of 10 prosecution witnesses, only 02 have been examined so far and that the petitioner is not involved in any other case under the NDPS Act.

In support of his case, learned counsel for the petitioner relies upon the orders dated 25.01.2023, passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No(s).6690/2022, titled as 'Dheeraj Kumar

Shukla Vs. State of Uttar Pradesh'.

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 and the fact that the petitioner is not involved in any other case under the NDPS Act. He, however, submits that the recovery effected from the petitioner falls under the commercial quantity and that Section 37 of the NDPS Act bars the grant of bail to the accused in case of commercial quantity. He further submits that the material witnesses are yet to be examined.

I have heard the learned counsel for the parties.

Though the recovered contraband in the present case, falls under the commercial quantity, yet the fact remains that the petitioner has been in custody for the last more than 02 years and 07 months and that 08 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 under the NDPS Act registered or pending against the petitioner. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

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, without commenting anything on the merits, lest it should prejudice the case of either side, the petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

12.07.2023
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No