

CRM-M-40672-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-40672-2022

Date of decision: 18.04.2023

Gurpreet Singh @ Preet

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. L.S.Sekhon, Advocate,
for the petitioner.

Ms. Rishu Madan, AAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through this third petition, the petitioner seeks regular bail in case FIR No.41 dated 11.04.2019, registered under Section 22 of the NDPS Act, at Police Station Moonak, District Sangrur.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that alleged recovery of intoxicating tablets had been effected from a bag lying on the road; that the motor-cycle was being driven by co-accused Vicky Kumar whereas the petitioner was a pillion rider on the motor-cycle and that the aforesaid co-accused has since been declared a proclaimed offender.

Learned counsel for the petitioner further contends that though the alleged recovery effected in the present case falls under the commercial

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quantity, yet the fact remains that the petitioner has been in custody for the last more than 02 years and 03 months and that all the material prosecution witnesses have been examined. Learned counsel further contends that there is no other case registered or pending against the petitioner, at least of a similar nature. 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'.

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. She, however, submits that the recovery effected in the present case is on a higher side and is hit by the stringent provisions of Section 37 of the NDPS Act. She further submits that out of 12 prosecution witnesses, only 04 witnesses have been examined. She further contends that co-accused has already been declared a proclaimed offender and in case, the petitioner is enlarged on bail, he may misuse the same.

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 for the last more than 02 years and 03 months and that out of 12 prosecution witnesses, only 04 witnesses have been examined so far. In such circumstances, trial of the case would take a long time to conclude. Therefore, no useful purpose would be served by keeping the petitioner behind the bars. Moreover, there is no other case pending or registered against the petitioner, at least of a similar nature.

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The Hon'ble Apex Court in Dheeraj Kumar Shukla' 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

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trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

18.04.2023

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No