

219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46805-2021

Date of Decision: 19.12.2023

Preet Singh

...Petitioner

VS.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Ranbir Singh Sekhon, Advocate
for the petitioner.

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

N.S.Shekhawat J. (Oral)

1. At the very outset, learned counsel for the petitioner contends that the offence under Sections 473 and 411 of IPC have been added in the present case and inadvertently, the said offences were not mentioned in the Head Note and prayer clause of the present petition.

2. Prayer is allowed. The offences under Sections 473 and 411 of IPC are ordered to be added in the Head Note and prayer clause of the present petition. The Registry is directed to carry out the necessary correction in this regard.

3. 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.32 dated 18.05.2021, registered under Sections 473 and 411 of IPC and 22 and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Sadar Budhlada, District Mansa.

4. Learned counsel for the petitioner contends that as per the case of the prosecution, the petitioner and his co-accused, namely, Manpreet Singh alias Mani were found in possession of 5000 tablets of Tramadol Hydrochloride and the alleged recovery of contraband fall within the ambit of 'commercial quantity'. He further contends that the mandatory provisions relating to search and seizure were not followed by the police in the present case. He further contends that his case is clearly distinguishable from the case of his co-accused, Manpreet Singh @ Mani as the petitioner is the first offender, whereas one more criminal case i.e. FIR No. 309 dated 24.12.2020 under Sections 22, 29, 61, 85 of NDPS Act, at Police Station Lehra has been registered against Manpreet Singh @ Mani. He next contents that the petitioner was arrested in the present case on 24.05.2021 and is in custody for the last more than 2 years and 7 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 Shukla 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.”

5. 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.

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

7. From the record, it is evident that the petitioner was arrested in the present case on 24.05.2021 and is in custody for the last about 02 years and 07 months. There is no other criminal case against him.

8. 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 present petition is allowed and 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.

19.12.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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