

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-49703-2021 (O&M)

Date of decision: 23.02.2023

Harpreet Singh

...Petitioner

Versus

Union of India through NCB

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. S. P. S. Khaira, Advocate and
Mr. Kunal Choksi, Advocate
for the petitioner.

Ms. Gurmeet Kaur Gill, Senior Panel Counsel
for the respondent-NCB.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in Case No. 23 dated 06.05.2019, under Sections 8, 22, 29 and 60 of the NDPS Act, 1985, registered at Police Station NCB, Chandigarh.

Learned counsel for the petitioner submits that the new ground for filing the present petition is that the petitioner is in long custody of about 03 years and 07 months and out of total 31 prosecution witnesses, only 07 witnesses have been examined so far.

Though, the first bail application, filed by the petitioner, was dismissed by this Court by passing a detailed order on 17.08.2021 in CRM-M-34997-2020, however, for the sake of brevity, the facts as stated in the said order are reproduced below:

“Counsel for the petitioner has argued that as per the complaint filed by the NCB, on receiving a secret

information that 03 persons namely Gurpreet Singh, Amit Uppal and Jasveer Singh, are involved in the sale and purchase of the contraband drugs, the said information was reduced into writing. Thereafter, the NCB team intercepted and stopped one I-20 car bearing registration No.PB-10-FD6080 and the occupants of the car introduced themselves as Amit Uppal, Subham Bhalla, and Jasveer Singh. Thereafter, the NCB team, by following the procedure, enquired about the articles kept in the dicky of the car. On this, the co-accused Jasveer Singh stated that he has kept a cardboard box in the dicky of the car, which contained TRAMADOL capsules, which he has purchased, however, he failed to produce any bill. Later on, Amit Uppal, Subham Bhalla, disclosed that another co-accused Gurpreet Singh is about to come carrying 02 more boxes. In the meantime, one Maruti van bearing registration No.PB05N-5677 was seen coming, which was intercepted and the occupants of the said car introduced themselves as Gurpreet Singh and Baljeet Singh. The present petitioner was also one of the occupant of the car. During the search of the two cars, the first recovery was effected from the joint possession of Harpreet Singh – petitioner, Amit Uppal, Gurpreet Singh, Subham Bhalla, Jasveer Singh, which was of 20,000 capsules of TRAMADOL HYDROCHLORIDE and then 1000 tablets of TRAMADOL HYDROCHLORIDE. Later on, the second recovery was effected of 46,400 capsules and 50,000 tablets of TRAMADOL HYDROCHLORIDE and in total, recovery of 2,16,400 tablets/capsules were effected. It is further submitted that except that the petitioner was the occupant of the car, there is no other allegation or disclosure of the co-accused that he was actively involved in the said business.

Reply by way of affidavit of NCB is on record and as per the reply, the recovery was effected jointly from the possession of the persons named above and they were in the joint possession of the contraband. It is also stated that the recovery is of commercial in nature and the regular bail application of the co-accused Jaswinder Singh, Amit, Gurpreet Singh, Abhishek Sharma, Baljeet Singh and Subham Bhalla, has already been dismissed or dismissed as withdrawn by this Court.

After hearing the counsel for the parties, considering the facts and circumstances of the case and also in view of the fact that huge recovery of 2,16,400 tablets/capsules were effected, no ground for grant of bail is made out.

Dismissed.”

Learned counsel for the petitioner further submits that as per own case of the NCB, a secret information was received that three persons, namely Gurpreet Singh, Amit Uppal and Jasveer Singh, are involved in the sale and purchase of the contraband, however, the petitioner was not named in the said secret information.

Learned counsel for the petitioner submits that it is the further case of the NCB that when they intercepted a car, 04 persons including petitioner were found as occupants in the said car, however, the petitioner, as per investigation, is neither the owner of the said car nor he was driver the car and he was only sitting on the rear seat of the car.

Learned counsel for the petitioner further submits that there is no disclosure of any of the accused that the petitioner was having any knowledge about the contraband being transported in the said car or that the was actively involved in the commission of offence with the other

co-accused.

It is further submitted that NCB has not collected any call details between the petitioner and other co-accused in order to establish whether the petitioner was having any conspiracy with the co-accused for commission of offence and even no bank details have been taken to know whether any drug money was transferred in the account of the petitioner or not.

Learned counsel for the petitioner has relied upon order dated 25.01.2023 passed by Hon'ble Supreme Court in SLP No. 2290/2022, titled as ***Dheeraj Kumar Shukla vs. State of Uttar Pradesh*** to submit that it is held that considering the long custody of an accused, the condition of Section 37 of the NDPS Act, 1985 can be dispensed with.

Reply, filed on behalf of the respondent-NCB, is on record, in which, regarding role of the petitioner, it is stated that he was an occupant of the said car, from which, first recovery of 20,000 capsules of *Tramadol Hydrochloride* and the second recovery of 46,400 capsules and 50,000 tablets of *Tramadol Hydrochloride* were effected, totaling 2,16,400 intoxicant capsules/tablets.

Learned counsel for the respondent-NCB submits that during the course of investigation, it is found that co-accused Abhishek Sharma is the main accused, who is operating his business from Haridwar by purchasing the intoxicant tablets/capsules and selling the same in open market through aforesaid 04 co-accused against fake bills/documents.

It is further submitted that during investigation, it is also found that all the three persons, Abhishek Sharma, Sandeep and Jaswinder Singh

Grewal), have given their addresses as Jamalpur Khurd, Bahadrabad, Haridwar and later on, due to GST problems, they have changed their address and co-accused Gurpreet Singh is the proprietor of Big View Medical Agency and has given experience certificate to Abhishek Sharma and Jaswinder Singh, which were found to be not genuine.

It is further submitted that in the disclosure of Jaswinder Singh, it has come that he has given a signed cheque book to Abhishek Sharma and the billing for his firm was done by Abhishek Sharma and Gurpreet Singh. On the basis of said investigation, it is stated that the petitioner was also a part of the conspiracy.

However, the affidavit of the NCB is silent about any disclosure of the co-accused indicting that the petitioner was a part of the group, which was operating in the sale and purchase of intoxicant tablets/capsules. Even nothing is stated regarding any call details of the petitioner with other co-accused or receiving of any drug money by him, therefore, at this stage, it will be a matter of trial whether the petitioner was having any active knowledge about the contraband being transported in the said car, especially in view of the fact that the secret information was with regard to only three co-accused, who were also the occupants in the car.

After hearing learned counsel for the parties, without commenting anything on the merits of the case, considering the aforesaid facts and circumstances and also in view of the fact that the petitioner is in long judicial custody of about 03 years and 07 months; out of total 31 prosecution witnesses, only 07 witnesses have been examined so far, which means, conclusion of trial may take a long time and also considering the

ratio of law laid down by Hon'ble Supreme Court in *Dheeraj Kumar Shukla's* case (supra), the present petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

23.02.2023
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>