

CRM-M-46958 of 2022 (O&M)

[1]

2023:PHHC:037068

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

102+205

CRM-M-46958 of 2022 (O&M)

Date of decision:02.03.2023

Pardeep Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Gaurav Sharma, Advocate
for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

SUVIR SEHGAL, J. (Oral)

CRM No.10152 of 2023

For the reasons given in the application, it is allowed.

Petitioner is permitted to make corrections in the main petition.

Amended petition be filed in the Registry.

CRM-M-46958 of 2022

This is the third petition filed under Section 439 Cr.P.C., seeking grant of regular bail to the petitioner in case FIR No.52 dated 30.03.2021 registered under Sections 22, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”) at Police Station Bhawanigarh, District Sangrur (Annexure P-1).

Version of the prosecution is that FIR (Annexure P-1) has been registered when on suspicion, a motorcycle with two riders was intercepted and a polythene bag containing 2100 intoxicating tablets of Tramadol Hydrochloride salt was recovered.

Counsel for the petitioner submits that the petitioner is not involved in any other case under the NDPS Act and he is in custody for the last more than 01 year and 11 months. By referring to the testimony of PW1-HC Gurjinder Singh (Annexure P-2), he has argued that contraband was recovered from the possession of the co-accused, Dilpreet Singh, who was sitting on the pillion of the motorcycle being driven by the petitioner. He submits that as the trial is not likely to conclude in the near future, petitioner deserves to be enlarged on bail. Reliance has been placed by him upon the judgment of Supreme Court in **SLP (Crl.) No(s).6690 of 2022 titled as Dheeraj Kumar Shukla Vs. The State of Uttar Pradesh, decided on 25.01.2023.**

Per contra, State counsel, upon instructions from ASI Sukhdev Singh, while opposing the petition has submitted that contraband recovered falls within the ambit of commercial quantity and rigor of Section 37 of NDPS Act, is attracted. As per his instructions, charge has been framed on 21.10.2021 and 01 out of total 17 prosecution witnesses has been examined.

I have heard counsel for the parties.

Hon'ble Supreme Court in **Dheeraj Kumar Shukla's case (supra)** has held as under:-

“....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 through the charges have been framed.”

Not only the petitioner is in custody for the last 23 months, but as per the custody certificate, he is not involved in any other case under the NDPS Act and there is remote possibility of early conclusion of trial. In view of these factors, this Court is inclined to accept the prayer made in the petition. The alleged recovery from the petitioner would be matter of debate before the Trial Court.

Without advertng to the merits or demerits of the arguments addressed, petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

March 02, 2023

savita

(SUVIR SEHGAL)

JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes