

IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

202

CRM-M-53085 of 2021

Date of decision:11.05.2023

Davinder Singh @ Katta

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Barjinder Singh, Advocate for
Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

SUVIR SEHGAL, J. (Oral)

1. This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973, seeking grant of regular bail to the petitioner in case bearing FIR (Annexure P-1):-

FIR No.	Dated	Police Station	Section
53	25.12.2019	Kabirpur (Ahalikalan), District Kapurthala	22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”) and Section 25 of Arms Act, 1959.

2. Version of the prosecution is that during routine patrolling on suspicion, a person, who was walking by the roadside, was checked and was

found to be in possession of 265 grams of intoxicating powder. One 7.65 mm pistol alongwith five live cartridges were also recovered from him.

3. Counsel for the petitioner contends that petitioner has been falsely implicated in the criminal case and no recovery was effected from him. He submits that despite the long detention of the petitioner, trial is at an initial stage. Counsel submits that first petition preferred by the petitioner was withdrawn, vide order dated 23.04.2021 (Annexure P-2) as there were some inadvertent errors in the petition. He submits that insofar as antecedents of the petitioner are concerned, he has been acquitted in most of the cases in which he has been named as an accused. He has placed reliance upon the judgments of Hon'ble 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** and **SLP(Crl.) No(s).1166 of 2023 titled as Chet Ram @ Ram Veer Vs. Union of India, decided on 15.03.2023.**

4. Per contra, upon instructions from ASI Balvir Singh, State counsel has opposed the petition and submitted that considering the criminal antecedents of the petitioner, he does not deserve to be released on bail. State counsel submits that commercial quantity of Tramadol has been recovered from the petitioner and bar under Section 37 of the NDPS Act, is attracted. Still further, upon instructions, he submits that one out of total ten prosecution witnesses, has been examined.

5. I have considered the submissions made by counsel for the parties.

6. As per the status report dated 10.10.2022 filed by the State, petitioner is involved in 12 criminal cases. He, however, has been acquitted in five cases for offences under Indian Penal Code and has been convicted in two cases, whereas, the remaining cases are under trial. Insofar as the FIR registered against the petitioner under the NDPS Act is concerned, no recovery was effected from the petitioner and he is on bail. Noticing the length of custody of 40 months, nascent stage of trial and following the judgments of Supreme Court in **Dheeraj Kumar Shukla's case (supra)** and **Chet Ram @ Ram Veer's case (supra)**, this Court is of the view that the petitioner deserves to be enlarged on bail.

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

8. While being released on bail, petitioner shall furnish an undertaking by way of an affidavit before the Court concerned that he will not get involved in any criminal activity during the pendency of the proceedings arising out of the FIR (Annexure P-1). It is further directed that petitioner will report at the police station concerned in the forenoon on the first Monday of every month and get his presence marked with the SHO and will keep him apprised about his whereabouts. In case of violation of any of the conditions, State shall be at liberty to seek cancellation of the bail.

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

May 11, 2023
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No