

IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

207

CRM-M-48976 of 2022

Date of decision:22.05.2023

Darshan Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Chandan Singh Rana, Advocate
for the petitioner.

Mr. Vipin Pal Yadav, Addl.A.G., Punjab.

SUVIR SEHGAL, J. (Oral)

1. This is the third 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	Sections
162	03.08.2020	Sadar Nakodar, District Jalandhar	22/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”).

2. Case of the prosecution is that FIR, which has been reproduced in the body of the petition, has been registered when a motorcycle with two riders was intercepted and recovery of intoxicating tablets was effected from them. The riders, Buta Singh and Kuldeep Singh were arrested on the spot.

3. Counsel for the petitioner urges that the petitioner has been falsely implicated in the criminal case. He submits that allegation against the

petitioner is that on the basis of disclosure statement of main accused, recovery of 1610 tablets alongwith drug money of Rs.70,000/- has been effected from his house. He submits that the petitioner has clean antecedents and is in detention since 06.08.2020. By placing 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**, counsel submits that as the trial is not likely to conclude in the near future, petitioner deserves to be enlarged on bail.

4. Per contra, State counsel upon instructions from ASI Jorawar Singh has opposed the petition and submits that out of the total tablets recovered from the petitioner, 900 tablets were containing Tramadol weighing 363.3 grams approximately. It is his argument that in such circumstances, bar under Section 37 of the NDPS Act is attracted. Still further, upon instructions he submits that 10 out of total 15 prosecution witnesses have been examined, although 07 prosecution witnesses are yet to be cross-examined by the defence.

5. I have considered the respective submissions of counsel for the parties.

6. 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.”

7. As per the custody certificate dated 20.05.2023 filed by the State, besides the present FIR, petitioner is not involved in any other criminal case. He is in custody for the last more than 33 months and there is a remote possibility of an early conclusion of trial. This Court is, therefore, of the opinion that parameters laid by the Hon’ble Supreme in the above quoted judgment are fulfilled.
8. Without adverting to the merits or demerits of the arguments addressed, petition is allowed and petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.
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 22, 2023

savita

(SUVIR SEHGAL)

JUDGE

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