

2023:PHHC:072201

IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH

209

CRM-M-50031-2022 (O&M)

Date of Decision: 18.05.2023

KARAMJEET SINGH @ KAMMA

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. KS Sidhu, Advocate
for the petitioner.

Mr. Kunal Muthreja, AAG Punjab.

HARNARESH SINGH GILL, J.(Oral)

CRM-18017-2023

This is an application for placing on record Annexures P-5 to
P-8.

With no objection from the learned State counsel, the present
application is allowed.

Annexures P-5 to P-8 are taken on record, subject to all just
exception.

Registry is directed to tag the same at an appropriate place.

CRM-M-50031-2022

Through this fifth petition, the petitioner seeks regular bail
in case bearing FIR No.143 dated 03.10.2020, registered at Police Station
Khuian Sarwar, District Fazilka, under Sections 15(c), 22(c) and 29
NDPS Act, 1985.

Status report by way of an affidavit dated 25.04.2023 of the Deputy Superintendent of Police, Sub-Division Abohar, District Fazilka, filed on behalf of the respondent-State, in the Court, is taken on record. Copy whereof has been supplied to the learned counsel opposite.

Learned counsel for the petitioner submits that that though the alleged recovery of 06 quintal of poppy husk and 65000 intoxicating tablets was effected from the truck, which was being driven by the petitioner, yet the fact remains that the petitioner is not the owner of the said truck; that co-accused, Jasvir Singh @ Nikka, who was indicted in the present case on the disclosure statement of the petitioner and has six other cases pending/registered against him, has been granted the concession of regular bail by a Coordinate Bench on 23.02.2023. He further submits that the petitioner has been in custody since 03.10.2020; that there is no other case pending or registered against the petitioner; that out of 20 prosecution witness, only one witness has been examined-in-chief so far.

In support of his contentions, learned counsel for the petitioner relies upon the order dated 25.01.2023 passed by the Hon'ble Apex Court in Special Leave to Appeal (Crl.) No.6690-2022 titled as 'Dheeraj Kumar Shukla vs. State of Uttar Pradesh'.

Per contra, while opposing the prayer for grant of regular bail to the petitioner, learned State counsel does not dispute the custody period of the petitioner. He, however, submits that the recovery effected in the present case falls under the commercial quantity and that Section 37 NDPS Act bars the grant of bail to the accused in the case of

commercial quantity. He further submits that material witnesses are yet to be examined and thus, the petitioner does not deserve the concession of regular bail.

I have heard the learned counsel for the parties.

Though the recovery allegedly effected in the present case falls under the commercial quantity, yet the fact remains that the petitioner has been in custody since 03.10.2020. Most of the prosecution witnesses are yet to be examined. In such circumstances, trial of the case would take a long time to conclude. There is no other case registered and/or pending against the petitioner. Co-accused has already been enlarged on bail.

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

'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. *It is made clear that in addition to the conditions that may be imposed by the Trial Court, the petitioner shall be required to appear before the Trial Court on every date of hearing. In case the petitioner is found to be involved in future in any other similar case, the respondent – State shall be at liberty to seek cancellation of bail granted to him by this Court.*

6. *The Special Leave Petition stands disposed in the above terms.....'.*

In view of the above and without commenting anything on the merits of the case, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

18.05.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

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