

Neutral Citation No. 2023:PHHC:045500
**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-50624 of 2022 (O&M)

DECIDED ON: 28th March, 2023

Mohammad Arif

.....PETITIONER

VERSUS

State of Punjab

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Ashok Kumar Khunger, Advocate for petitioner.

Mr. Iqbal Singh Mann, DAG Punjab.

AVNEESH JHINGAN, J (ORAL)

This is a third petition seeking regular bail in case of FIR No. 6, dated 31.1.2020, under Section 22 of NDPS Act, 1985, registered at Police Station Phase-11, District SAS Nagar.

Reply filed is taken on record.

First petition was dismissed as withdrawn on 5th April, 2021. Second petition was withdrawn on 18th April, 2022 as learned counsel for State on instructions made a statement that the prosecution witnesses are police official and an earnest effort would be made to examine all the prosecution witnesses within five months.

The brief facts are that the petitioner was apprehended by the police party on 31.1.2020 and 1080 tablets containing Diphenoxylate Hydrochloride salt were recovered.

Learned counsel for the petitioner submits that the petitioner is in custody since 31.1.2020. There is no progress in the trial and *inspite of* statement made before this Court that the prosecution witnesses would be examined within five months, needful has not been done. He further submits

CRM-M-50624 of 2022 (O&M)

-2-

that the petitioner is not involved in any other case. He relies upon the decision of the Supreme Court in SLP (Crl.) No.6690 of 2022 **Dheeraj Kumar Shukla** Versus **The State of Uttar Pradesh** decided on 25.1.2023.

Learned State counsel has filed affidavit of Dr. Sandeep Kumar Garg, IPS, Senior Superintendent of Police, District SAS Nagar (Mohali) stating that only one official witness has been examined. It is further pleaded that the police officials *inspite of* notice had not appeared before the trial Court and show cause notices have been issued to the defaulting officials. He fairly submits that petitioner is not involved in any other case.

Without commenting upon the merits of the case, considering that the petitioner has clean antecedents, he is in custody for more than three years and there is no progress in the trial. Supreme Court in similar circumstance in case of **Dheeraj Kumar Shukla', case (supra)** had granted bail, petitioner is granted bail on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petition is allowed.

It is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

However, the SSP concerned shall file a compliance report with regard to the action taken against the police officials to whom show cause notices have been issued.

Since the main case has been decided, pending application, if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

28th March, 2023

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Whether speaking/reasoned *Yes*
Whether reportable *No*