

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-53352 of 2023
Date of Decision:16.11.2023

Hardeep Singh

...Petitioner

Vs.

Union of India, Narcotics
Control Bureau, Chandigarh

...Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Ravinder Malik, Advocate for
Mr. Garvit Mittal, Advocate
for the petitioner.

Mr. Sourabh Goel, Advocate for Central Government
for the respondent.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.72 dated 22.12.2020 registered under Sections 8, 18, 27-A, 28, 29 & 60 of NDPS Act at Police Station Narcotics Control Bureau, Chandigarh.

2. The complaint was lodged in the present case against the petitioner and the others on the ground that on 21.12.2020, a secret information was received by Surveillance Assistant that petitioner, namely, Hardeep Singh S/o Ajeib Singh, was involved in the opium

smuggling and he had taken a huge quantity of opium from a person of Jharkhand on 14.12.2020 and was bringing the consignment in his truck bearing registration No. HR-74-A-6942. A team of NCB officials was constituted and at about 5.15 am, on 22.12.2020, a truck having registration No. HR-74-A-6942 was signaled to stop at the side of road and two persons were noticed sitting in the truck. The truck was taken into possession and on asking, the truck driver disclosed his name Ram Lal son of Kura Ram and the other person disclosed his name Hardeep Singh son of Ajeib Singh (petitioner), owner of the truck. On search of the truck, 9 kg of opium was recovered from the tool box of the said truck. With these broad allegations, the prosecution of the petitioner and his co-accused was initiated.

3. Learned counsel for the petitioner contends that the similarly placed co-accused Ram Lal has already been granted the concession of regular bail by this Court vide order dated 06.07.2023 passed in CRM M-7720-2023 (Annexure P-3). He contends that the petitioner is in custody since 22.12.2020, i.e., almost for a period of 02 years and 11 months. Learned counsel for the petitioner has also relied upon the law laid down by the Hon'ble Supreme Court in the matter of SLP No. 6690 of 2022, titled as “**Dheeraj Kumar Shukla Vs. State of Uttar Pradesh**”, in which the Hon'ble Supreme Court held as follows:-

“2. The allegations are that on a secret information, the police authorities intercepted two vehicles on 23.06.2020 i.e. one 'Gray' coloured 'Honda City' car and the second 'White' coloured 'Swift Dzire' car. On an interrogation at the spot, Praveen Maurya @ Puneet Maurya, Rishab Kumar Maurya and Dheeraj Kumar Shukla were found to be occupants of the 'Honda City' car whereas the petitioner was driving the 'Swift Dzire' car. On taking a search, more than 92 kgs. Ganja was allegedly recovered from 'Honda City' car where as more than 65 kgs. Ganja was recovered from 'Swift Dzire' Car. The accused were arrested at the spot. The petitioner is, thus, in custody since 24.06.2020.

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. Learned counsel appearing for the respondent has vehemently opposed the grant of concession of bail to the present petitioner on the ground that the quantity of contraband recovered from the present petitioner is commercial in nature. He further

contends that the petitioner was aware of the fact that the alleged contraband was being transported in the vehicle.

5. I have heard learned counsel for the parties and perused the record.

6. No doubt, the quantity recovered from the petitioner is commercial in nature and the stringent provisions of Section 37 of the NDPS Act would apply to the facts of the instant case. However, it is evident that the petitioner is in custody for the last more than 2 and a half years.

7. Consequently, keeping in view the above stated facts and the law laid down by the Hon'ble Supreme Court in the matter of Dheeraj Kumar Shukla's case (Supra) , the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

16.11.2023

(N.S.SHEKHAWAT)

amit rana

JUDGE

Whether reasoned/speaking

:

Yes/No

Whether reportable

:

Yes/No