

IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

203

CRM-M-60522 of 2022

Date of decision:24.04.2023

Darshan Ram

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. K.S.Brar, Advocate
for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

SUVIR SEHGAL, J. (Oral)

1. This is the fourth petition filed under Section 439 Cr.P.C., seeking grant of regular bail to the petitioner in case bearing FIR:-

FIR No.	Dated	Police Station	Section
232	26.09.2019	Canal Colony, District Bathinda	22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”)

2. Version of the prosecution is that during route patrolling, two young boys, who were found to be in possession of 2000 tablets in a transparent white polythene bag, were apprehended.

3. Counsel for the petitioner contends that recovery allegedly effected from the petitioner is 64.25 grams of Alprazolam which falls in the non-commercial quantity and 615.5 grams of Tramadol, which falls under the commercial quantity as per the notification issued under the NDPS Act.

Counsel submits that despite the fact that the petitioner has been in custody for the last more than 03 years, trial has not concluded. By placing reliance upon the judgment 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**, he contends that the petitioner, who is not involved in any other criminal activity is entitled to the concession of regular bail.

4. Opposing the petition, State counsel has invited attention of the Court to both the status reports, one of which is being filed today, to submit that out of eleven prosecution witnesses, one has been examined and six witnesses have been given up. He submits that the remaining four witnesses have been summoned by the Trial Court for 17.05.2023. He submits that as the recovery effected from the petitioner is commercial quantity, *rigour* of Section 37 of the NDPS Act, is attracted.

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

6. A perusal of the additional status report dated 23.04.2023 filed by the State shows that although the prosecution witnesses were bound down for 11.04.2023, but one of the official witnesses did not appear andailable warrants have been issued by the Trial Court to secure his presence. It is also a matter of record that despite the fact that charge was framed on 30.01.2020, prosecution has failed to conclude its evidence. Custody certificate dated 20.04.2023 filed by the State is taken on record, from which it is evident that the petitioner has an unblemished past. Noticing the long incarceration of the petitioner and other circumstances mentioned above, this

Court is of the view that prayer made in the petition would fall within the parameters laid down by the Hon’ble Supreme Court in **Dheeraj Kumar Shukla's case (supra)**.

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 bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.
8. It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

April 24, 2023

savita

(SUVIR SEHGAL)
JUDGE

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