

107+213 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHCRM-42754-2023 in/and
CRM-M-2327-2022
Date of Decision: 25.01.2024

Jatinder Kumar @ Jimmy Chhabra

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.ShekhawatPresent : Mr. P.S.Sekhon, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

N.S.Shekhawat J. (Oral)**CRM-42754-2023**

1. Application is allowed as prayed for.

CRM-M-2327-2022

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.87 dated 22.06.2021 registered under Sections 21 and 29 of NDPS Act, 1985, at Police Station , STF, Phase-4, District SAS Nagar, Mohali.

2. As per case of the prosecution, on receipt of a secret information the present accused along with his co-accused Deepak were arrested and 950 grams of heroin were recovered from them in the dashboard of car bearing No.PB-65-AM-4343.

3. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case. He further submits that the signatures

of all the witnesses including the accused were obtained on a blank papers and entire case was planted on him. He further submits that the alleged recovery, which was recovered from the dashboard of the car, does not belong to the present petitioner and he has no connection with the same. Learned counsel further submits that the petitioner was arrested in the present case on 22.06.2021 and is in custody for the last more than 02 years and 7 months. He further submits that the investigation is complete and the challan has already been presented before the trial Court. He further submits that the charges have been framed against the present petitioner vide order dated 03.02.2022. Learned counsel for the petitioner has 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. 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.”

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that one more case under NDPS Act has been registered against the present petitioner. However, admittedly the recoveries of the contraband in the said case was non-commercial in nature and the petitioner is on bail in the said case.

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

6. From the record, it is evident that the petitioner was arrested in the present case on 22.06.2021 and is in custody for the last more than 02 years and 07 months. There is no other criminal case against him.

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, subject to the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the

- facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
 - (iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
 - (iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
 - (v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
 - (vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*
 - (vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.*
 - (viii) The petitioner shall report every 1st Monday of English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.*

25.01.2024
hemlata

(N.S.SHEKHAWAT)
JUDGE

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