

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5488-2024
Date of Decision:08.02.2024

Jagtar Singh @ Bhola ...Petitioner

vs.

State of Punjab ...Respondent

Coram : Hon’ble Mr. Justice N.S.Shekhawat

Present: Mr. P.S Sekhon, Advocate
for the petitioner.

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

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 439 Cr.PC with a prayer to grant regular bail to him in case FIR No. 79 dated 27.05.2021, registered under Sections 15-C/25 of NDPS Act and under Sections 420,473 of IPC, Police Station Sadar Bathinda, District Bathinda.
2. As per the case of the prosecution, a police party headed by Inspector Bhupinder Singh was present at T-point near AIIMS Hospital, Bathinda. In the meantime, Balvir Singh came on a tractor and he joined the police party. At about 09:30 P.M a Trally bearing registration No.PB-04N-9643 came from the side of Dabwali and was stopped on the basis of suspicion. On asking, driver of the Tralla disclosed his name as Jagtar Singh @ Bholla son of Mahender Singh. From checking of the Tralla, 23 plastic sacks each containing 20 kgs poppy husk i.e.j total 460 Kgs of Poppy husk, were recovered.
3. Learned counsel for the petitioner contends that the petitioner has

been falsely involved in the present case. He further submits that no recovery has been effected from the petitioner, as he was not the driver of the said tralla. Learned counsel further submits that the petitioner was arrested in the present case on 27.05.2021. 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 the quantity of contraband recovered from the petitioner is commercial in nature and the rigors of Section 37 of NDPS Act would apply to the facts of the present case. However, learned State counsel admits that there is no other criminal case under NDPS Act against the present petitioner.

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

6. In the present case, the petitioner was arrested on 27.05.2021 and is in custody for the last 02 years and 08 months. There is no other criminal case against him.

6. 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.

08.02.2024
hitesh

(N.S.SHEKHAWAT)
JUDGE

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