



CRM-M-8104-2024

205

1

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-8104-2024
Date of decision:-15.07.2024

Mahal Singh @ Mahil Singh

... Petitioner

Versus

State of Punjab

.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

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

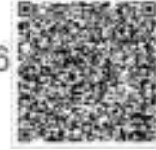
Mr.Anil Bansal, DAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. This second petition has been filed under Section 439 Cr.P.C.
seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
27	29.04.2022	City-II, Abohar, District Fazilka	18, 27-B and 29 of NDPS Act

2. Case of the prosecution is that FIR, Annexure P1, has been registered on the basis of a secret information that Manohar Lal and Sat Narain have brought opium from Madhya Pradesh for its sale in the State of Punjab with the help of Mahal Singh @ Mahil Singh, present petitioner. A

**CRM-M-8104-2024**

205

2

Brezza car was intercepted and recovery of 3 kg 500 grams opium, drug money, mobile phones and petty cash etc. was recovered from the three occupants of the car. Mahal Singh @ Mahil Singh, present petitioner, who was driving the vehicle and the other two occupants Manohar Lal and Sat Narain were apprehended.

3. Counsel for the petitioner submits that there has been violation of the mandatory provision of NDPS Act at the time of search and seizure. He submits that the petitioner, who is a 56 years old man suffering from various ailments has been falsely implicated. He asserts that despite the detention of petitioner more than two years, trial is at an early stage and the petitioner deserves to be released on bail. He submits that although the petitioner was named as an accused in another criminal case, but it was quashed by this Court on the basis of compromise reached at between the parties vide order dated 12.08.2008 passed in CRM-M-5563 -2008.

4. *Per contra*, State counsel on instructions from ASI Balwinder Singh has opposed the petition by inviting the attention of the Court to Section 37 of NDPS Act. He has filed custody certificate dated 14.07.2024, which is taken on record and could not dispute the antecedents of the petitioner. As per his instructions, four out of nine PWs have been examined. He asserts that petitioner is the owner of the vehicle from which recovery has been effected.

5. Having heard counsel for the parties, this Court is *prima facie* of the view that the allegations levelled against the petitioner would remain a subject matter of debate before the trial Court and the petitioner, who has a



CRM-M-8104-2024

205

clean past deserves to be released on bail. Petitioner has been in custody for more than 26 months and the trial has not reached the half way. Supreme Court in *SLP (Crl) No.6690 of 2022* titled as *Dheeraj Kumar Shukla Versus The State of Uttar Pradesh*, decided on 25.01.2023 has said that long detention of an accused is sufficient to release him on bail despite restrictions placed under Section 37 of NDPS Act.

6. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

7. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

15.07.2024
Brij

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