215 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CRM-M-17970-2022
Date of Decision: 22.04.2024

Prince Verma …Petitioner

vs.

State of Punjab …Respondent

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

Present : Mr. Vipin Kumar, Advocate
for the petitioner.

Mr. Deepinder Singh Brar, Senior DAG, Punjab.

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N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.38 dated 09.03.2021 registered under Section 22(C) of NDPS Act, 1985, at Police Station Special Task Force, Jalandhar Range, District Jalandhar.

2. As per case of the prosecution, recovery of 6500 intoxicating tablets of Tramadol was effected from the present petitoner and his co-accused, which is commercial quantity.

3. Learned counsel for the petitioner submits that the petitioner has undergone more than 03 years and 01 month and 11 days of custody and no other criminal case has been registered against him. He further submits that similarly placed co-accused, namely, Binder Singh has already been granted the concession of regular bail by this Court, vide order dated 02.08.2023 passed in CRM-M-27340-2023. He further contends that the petitioner was arrested in

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the present case on 09.03.2021 and challan has already been presented against him. He next contends that out of total 12 prosecution witnesses, only three witnesses have been examined so far. 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."*

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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 heard learned counsel for the parties and perused the record.

6. In the present case, the petitioner was arrested on 09.03.2021 and is in custody for the last more than 03 years and 01 month. There is no other criminal case against him. Apart from that, similarly placed co-accused, namely, Binder Singh has already been granted the concession of regular bail by this Court, vide order dated 02.08.2023 passed in CRM-M-27340-2023.

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 inducment, 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.

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(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.

(N.S.SHEKHAWAT)
JUDGE

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

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