

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25914-2023
Date of Decision:15.01.2024

Arvind @ Bablu ...Petitioner

vs.

State of Haryana ...Respondent

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

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

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

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 in case FIR No. 157 dated 21.08.2020 registered under Section 22-C and 27-A of NDPS Act, Police Station Bhattu Kalan, District Fatehabad.
2. As per the story of the prosecution on 21.08.2020, ASI Ricchhpal Singh was present at the office of Crime Branch, Fatehabad and received a secret information to the effect that the petitioner was indulging in the business of selling intoxicant tablets. A raid was conducted and the petitioner was apprehended with 480 strips containing 4800 tablets make Treicore SR (Tramadol) and 240 strips containing 2400 tablets make Parvorine Spas (Tramadol). After following the due process of law, the petitioner was ordered to be arrested.
3. Learned counsel for the petitioner contends that the petitioner has

been falsely involved in the present case and was wrongly arrested by the police on 21.08.2020. Learned counsel next contends that mandatory provisions of NDPS Act were not followed while conducting the search from the present petitioner. He further contends that even though the petitioner was involved in one more case i.e FIR No.197/2020, under Section 22 (B)/61/85 of NDPS Act, Police Station Bhattu Kalan, Fatehabad, but no recovery was effected from the petitioner in the said case. 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 prayer made by learned counsel for the petitioner on the ground that the rigors of Section 37 of NDPS Act would apply to the facts of the present case and the petitioner is not entitled to be released on bail.

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

6. In the present case, the bail application filed by the present petitioner was withdrawn by him on 30.09.2022 and after passing the said order dated 30.09.2022 (Annexure P-7), the petitioner has remained in custody for the last more than 01 year and 4 months, however, the proceedings before the Trial Court are continuing at snail's pace and only 03 witnesses out of total 16 witnesses have examined so far. This itself would be a ground for consideration of the bail application. Even otherwise, the petitioner is continuing in custody for the last about 03 years and 05 months. Still further, even though there is one more case i.e FIR No.197/2020, under Section 22 (B)/61/85 of NDPS Act, Police Station Bhattu Kalan, Fatehabad has been registered against the present petitioner, but no recovery was effected from the petitioner in the said case.

7. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate 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 is involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.

(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 bails bonds and surety bonds of the petitioner.

(viii) The petitioner shall report every 1st Monday of English

calender month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the Rojnamcha.

8. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

15.01.2024
hitesh

(N.S.SHEKHAWAT)
JUDGE

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