



223 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34112 of 2024
Date of Decision: 24.07.2024

Gopal Singh @ Gopala @ Gopi ...Petitioner
vs.
State of Haryana ...Respondent

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

Present : Mr. D.S.Virk, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

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.66 dated 24.03.2021 registered under Sections 21(C) /29 of NDPS Act, 1985 at Police Station Rajound, District Kaithal.
2. As per the case set up by the prosecution, on 24.03.2021, Virender @ Ladi, Gurpreet Singh @ Gopi and the petitioner were ordered to be arrested by the police, while they were carrying 2 kg 85 grams of smack in a car, without any permit or license.
3. Learned counsel for the petitioner submits that in the present case, the police had not followed the mandatory provisions of law relating to search and seizure. Moreover, as per the FSL report, only 0.2% heroin has been found in the substance, which was allegedly recovered by the police. Learned counsel further submits that co-accused Virender @ Ladi and Gurpreet Singh @ Gopi



had filed CRM-M-33689-2021 and CRM-M-39530-2021 with a prayer to grant concession of bail to them and they have been ordered to be released on bail by this Court, vide order dated 17.05.2022 (Annexure P-5). As per learned counsel, the case of the petitioner is at par with his co-accused, namely, Virender @ Ladi and Gurpreet Singh @ Gopi. He 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 petitioner is involved in two more cases under NDPS Act. However, she does not dispute the fact that the petitioner has already undergone about 03 years and 04 months of custody and similarly placed co-accused have already been granted the concession of bail by this Court, vide order dated 17.05.2022 (Annexure P-5).

5. I have heard learned counsel for the parties and carefully perused the record, in the present case.

6. In the present case, no doubt, the petitioner is facing two more cases under NDPS Act, but the petitioner cannot be denied the concession of bail in the present case only on the ground that the petitioner has been able to make out a case for grant of bail in the facts and circumstances of the present case. The reliance can be placed on the law laid down by the Hon'ble Supreme Court in the matter of “***Prabhakar Tewari Vs. State of U.P., and another***” 2020(1) R.C.R. (Criminal) 831 where it has been held that the pendency of several criminal cases against the accused cannot be the basis to refuse the prayer of bail. Similar observations have been made by the Hon'ble Supreme Court in the matter of “***Maulana Mohd. Amir Rashadi Vs. State of U.P., and another***” 2012(1) R.C.R. (Criminal) 586. Moreover, the petitioner has already undergone about 03 years and 04 months of custody and similarly placed co-accused



Virender @ Ladi and Gurpreet Singh @ Gopi have already been granted the concession of bail by this Court.

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.

24.07.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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