

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-35067-2024
Date of decision:-30.07.2024

Satayanarayan Prajapati

... Petitioner

Versus

State of Punjab

.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.Manjinder Singh Brar, Advocate and
Mr.Gagandeep Singh Gill, Advocate
for the petitioner.

Ms.Amrita Garg, AAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. Instant 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 Satayanarayan (present petitioner) have brought opium from Madhya

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Pradesh for its sale in the State of Punjab with the help of Mahal Singh @ Mahil Singh. A Brezza car was intercepted and recovery of 3 kg 500 grams opium, drug money, mobile phones etc. was recovered from the three occupants of the car. Mahal Singh @ Mahil Singh was driving the vehicle, whereas Satayanarayan (present petitioner) was sitting in the navigator seat and Manohar Lal was sitting on the rear seat.

3. Counsel for the petitioner submits that the petitioner, who is a young man with clean antecedents has been falsely implicated. He submits that mandatory provisions of NDPS Act were not complied with at the time of search and seizure and no recovery has been effected from the conscious possession of the petitioner. It is the specific case that alleged recovery was effected from a black bag, which was near the hand-brake of the vehicle. Placing reliance upon the order dated 15.07.2024, Annexure P3, whereby co-accused Mahal Singh @ Mahil Singh was released on bail, he asserts that the petitioner is similarly placed.

4. *Per contra*, State counsel on instructions from ASI Sukhmander Singh has opposed the petition and urges that in view of bar under Section 37 of NDPS Act, petitioner does not deserve the concession of bail. She has filed custody certificate dated 29.07.2024, which is taken on record and could not dispute the antecedents of the petitioner. She has specific instructions to state that examination-in-chief of four out of total nine prosecution witnesses has been recorded.

5. I have heard counsel for the parties and considered their respective submissions.



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6. Supreme Court in case titled as **Dheeraj Kumar Shukla Versus The State of Uttar Pradesh, 2023 SCC On Line SC 918** has said that long detention of an accused is sufficient to release him on bail despite restrictions placed under Section 37 of NDPS Act. Petitioner has been in custody for the last more than 27 months and has clean past. Prosecution is yet to examine more than half of the witnesses. Moreover, the allegation against the petitioner is almost similar as levelled against co-accused Mahal Singh @ Mahil Singh. This Court is, therefore, of the view that as the allegations against the petitioner are debatable, he deserves to be enlarged on bail.

7. 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.

8. 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

30.07.2024
Brij

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