

219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39540-2023
Date of Decision: 25.01.2024

Gaurav Gaba ...Petitioner

VS.

State of Haryana ...Respondent

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

Present : Ms. Himani Anand, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.294 dated 19.05.2021 registered under Section 22 of NDPS Act, 1985 (Section 29 of NDPS Act added later on), at Police Station Krishna Gate, Thanesar, District Kurukshetra.

2. As per case of the prosecution, on receipt of a secret information on 19.05.2021, a raid was conducted by ASI Surender Kumar along with other officials and 70 tablets of Tramadol (6 strips containing 10 tablets each and 10 loose tablets), 750 tablets of Orizolam (72 strips containing 10 tablets each and 30 loose tablets) and 1232 tablets of Lomotil (1212 loose tablets and 1 strip containing 20 tablets) were recovered from the present petitioner, without any permit or license.

3. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case. She next contends that in the present

case, mandatory provisions of relating to search and seizure have not been followed by the police. Learned counsel further submits that the petitioner was arrested in the present case on 19.05.2021 and is in custody for the last more than 02 years and 6 months. She further submits that the investigation is complete and the challan has already been presented before the trial Court. She further submits that the charges have been framed vide order dated 02.05.2022. She further contends that only five witnesses, out of total 32 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.”

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 against the present petitioner.

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

6. From the record, it is evident that the petitioner was arrested in the present case on 19.05.2021 and is in custody for the last more than 02 years. There is no other criminal case against him.

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.

25.01.2024
hemlata

(N.S.SHEKHAWAT)
JUDGE

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