



212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44167-2024(O&M)

Date of Decision:13.09.2024

Gurdev Singh

...Petitioner

vs.

State of Punjab

...Respondent

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

Present : Mr. Vinay Kumar Gupta, Advocate, for the petitioner.

Mr. Deepinder Singh Brar, Senior DAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the third petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.97 dated 05.05.2022 registered under Sections 15/25/29/61/85 of NDPS Act, at Police Station Sidhwan Bet, District Ludhiana Rural.

2. As per the case of the prosecution, on receipt of secret information by the police to the effect that Kulwinder Singh and Kanwarpal Singh were indulging in the activities of sale of poppy husk and they had stored the poppy husk in the house of Kulwinder Singh, the FIR was registered and the raid was conducted at the house of Kulwinder Singh. Total 60 kgs of poppy husk was recovered and the accused Kulwinder Singh succeeded to flee away. During investigation, Gurdev Singh, present petitioner, was nominated as an accused and as per his disclosure statement, 6 sacks of poppy husk, each sack containing 20 Kgs poppy husk, were recovered and the total recovery in this case was 180 Kgs of poppy husk, which falls within the definition of "commercial quantity".



3. Learned counsel for the petitioner submits that the petitioner has been falsely involved in the present case. He further submits that the petitioner was not named in the FIR, he has been nominated only on the basis of the disclosure statement. He further contends that there is no evidence against the petitioner to connect him with the commission of alleged offence. The petitioner is in custody since 06.05.2022. 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 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 06.05.2022 and is in custody for the last about 02 years and 04 months. 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, 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.*

13.09.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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