

(i) CRM-M-53862-2022

State of Punjab ...Respondent

(ii) CRM-M-53869-2022

State of Punjab ...Respondent

levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further submits that no recovery has been effected from the personal search of the petitioners. He further submits that the investigation is complete and challan has already been presented before the trial Court. The petitioners were arrested in the present case on 20.01.2021 and are in custody since then. He further submits that co-accused Ajay Kumar @ Nannu has already been granted the concession of regular bail by this Court, vide order dated 24.11.2021 in CRM-M-31647-2021. 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 petitioners on the ground that the quantity of contraband recovered from the petitioners is commercial in nature and the rigors of Section 37 of NDPS Act would apply to the facts of the present case. He further submits that one more case i.e. FIR No.1 dated 02.01.2021 under Sections 21/25/29 of NDPS Act and Section 25 of Arms Act has been registered against Deepak @ Deepu @ Bhaiya, the present petitioner and they do not deserve the concession of bail by this Court.

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

6. In the present case, the petitioners were arrested on 20.01.2021 and are in custody for the last more than 03 years. The co-accused Ajay Kumar @ Nannu has already been granted the concession of regular 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)** , both the petitions are allowed and the petitioners are ordered to be released on bail subject to their furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

(N.S.SHEKHAWAT)
JUDGE

01.02.2024
hemlata

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