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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-37980-2025**Date of Decision:24.07.2025**

Hushiar Singh

...Petitioner

vs.

State of Punjab

...Respondent

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

Present : Mr. Karandeep Singh Sidhu, Advocate
for the petitioner.

Mr. Ravneet Singh Joshi, DAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 with a prayer to grant regular bail to him in case FIR No.73 dated 03.06.2023 registered under Sections 21, 23, 28, 29, 30, 61, 85 of NDPS Act (Later on added Sections 182/192 of Motor Vehicle Act, vide report No.29 dated 06.09.2023), at Police Station Sadar Jalalabad, District Fazilka.

2. This FIR was registered on the basis of secret information received by SI Gurwinder Kumar during patrolling with his police party. It was informed by the secret informer that non-applicants Amandeep Singh son of Sharma Singh, Baggu Singh, Binder Singh, Gori and some unknown persons have smuggled heroin from Pakistan with the help of a drone and that they are transporting that consignment of heroin on one motorcycle make Platina bearing registration No.PB37-D-3036 and were about to deliver the same to the customers with the help of petitioner-Hushiar Singh son of Surjit Singh. It was

further informed that if patrolling is carried out in the area of Dandi Qadim, Parbhat Singh Wala and Sabaj Ke villages of the border area, recovery of such heroin can be effected. Considering such secret information to be credible, on the basis of Ruqa, FIR under Sections 21, 23, 28, 29 & 30 NDPS Act was registered at police station Sadar Jalalabad. During the course of patrolling applicant Hushiar Singh and non-applicant Gurpreet Singh @ Gori were apprehended and recovery of 9 packets of heroin was effected which came out to be 9.387 Kilograms in total.

3. Learned counsel for the petitioner submits that the petitioner was arrested in the present case on 03.06.2023 and has undergone about 02 years and 01 month of custody. 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 03.06.2023 and is in custody for the last about 02 years and 01 month. 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.

8. Pending application, if any, is also disposed of.

24.07.2025
hemlata

(N.S.SHEKHAWAT)
JUDGE

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