2025:PHHC:003157

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

CRM-M-42185-2024
Date of Decision: 13.01.2025

Kaka Singh …Petitioner

vs.

State of Punjab …Respondent

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

Present : Mr. P.S.Sekhon, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

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N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.149 dated 04.09.2021 registered under Sections 22 and 29 of NDPS Act, at Police Station City-I Sangrur, District Sangrur.

2. As per case of the prosecution on 4.09.2021, the petitioner was found in conscious possession of 2000 intoxicant tablets of Tramadol Prolonged Tramwel SR-100, 750 intoxicant Tramadol Hydrochloride 100 mg. SR tablets Radol 100, 1200 intoxicant Alprazolam Tablets IP 0.5 mg. Alprasafe, total 3950 tablets, which falls under the commercial quantity.

3. Learned counsel for the petitioner submits that a false case was planted by the Investigating Officer as no alleged recovery was ever effected from the conscious possession of the petitioner. He further contends that during the course of investigation, no private witness was joined by the IO. The petitioner was arrested in the present case on 04.09.2021 and has undergone

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more than three years of custody. He further submits that the only 08 prosecution witnesses, out of total 18 witnesses, have been examined so far. Learned counsel for the petitioner has further 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*

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> *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.

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

6. In the present case, the petitioner was arrested on 04.09.2021 and is in custody for the last more than three years. The trial of the case is likely to take long time and further custody of the petitioner will not required at this stage.

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 inducment, 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.

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(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.

(N.S.SHEKHAWAT)
JUDGE

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

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