



2. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case only on the basis of suspicion and no recovery was effected from his conscious possession. Even, while effecting the recovery from the petitioner, no independent witness was associated by the I.O of the present case. Apart from that, the police had violated the mandatory provisions of Section 50 of NDPS Act and the process of search and seizure stood vitiated. Apart from that, there was unexplained delay of six days in sending the sample parcel to the F.S.L and no explanation was offered for the same. Learned counsel next contends that in the present case, the prosecution

relied upon 14 witnesses and only 04 witnesses have been examined so far. Further, 04 prosecution witnesses were also given up. Thus, the conclusion of the trial may take quite a long time. The petitioner was arrested in the present case on 11.05.2023 and is in custody for the last more than three years. Thus, the petitioner deserves to be granted the concession of bail by this Court.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that serious and specific allegations were levelled against the petitioner and the present petition deserves to be dismissed by this Court.

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

5 The Hon'ble Supreme Court in the matter of titled as **“Dheeraj Kumar Shukla Vs. State of Uttar Pradesh”**, SLP No. 6690 of 2022, 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.”

6. In the present case, the petitioner was arrested on 11.05.2023 and is in custody for the last more than 03 years. Apart from that, the prosecution has been able to examine only 04 witnesses out of total 14 witnesses and the further custody of the petitioner will not serve any meaningful purpose. Apart from that, the petitioner is a first offender and was never involved in any other criminal activity. Thus, further custody of the petitioner will not serve any meaningful purpose.

7. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate.

(N.S.SHEKHAWAT)
JUDGE

27.05.2026
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No