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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25200-2024

Date of Decision:16.05.2025

NIRANJAN PARSAD KUSHWAHA

...PETITIONER

VS.

STATE OF PUNJAB

...RESPONDENT

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

Present : Ms. Surbhi Yadav, Advocate for
Mr. Anoop Kumar Yadav, Advocate
for the petitioner.

Mr. Ravneet Singh Joshi, Deputy, A.G., Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 439 of Cr.P.C. with a prayer to grant regular bail to him in case FIR No.21 dated 31.01.2023, registered under Section 20 of NDPS Act, Police Station City-2, Khanna, District Ludhiana.

2. As per case of the prosecution, there had been a recovery of 5 kgs 800 gram of charas from the present petitioner, which falls under the category of "commercial quantity".

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The petitioner was arrested in the present case on 31.01.2023 and is in custody for the last about 02 years and 04



months. He further submits that the investigation is complete and the challan has already been presented before the trial Court. He further contends that the prosecution has been able to examine only 04 witnesses out of 07 witnesses so far and no other case was ever registered against the present petitioner. 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 prayer made by learned counsel for the petitioner on the ground that serious and specific allegations have been levelled against the present petitioner and he does not deserve the concession of bail.

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

6. From the record, it is evident that the petitioner was arrested in the present case on 31.01.2023 and is in custody for the last about 02 years and 04 months. Apart from that, the prosecution has been able to examine only 04 witnesses out of total 07 witnesses and the conclusion of the trial may take quite a long time. Thus, further custody of the petitioner will not serve any meaningful purpose.

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

16.05.2025
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(N.S. SHEKHAWAT)
JUDGE

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