

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

**CRM-M No.3922 of 2016 (O&M)
Date of Decision: 20.05.2016**

Sunil @ Nepali

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Ashwani Gaur, Advocate for the petitioner.

Mr. Kuldip Tiwari, Additional Advocate General, Haryana
for the respondent/State assisted by ASI Krishan Chand.

JASWANT SINGH, J. (Oral)

Present petition is for grant of regular bail under Section 439 Cr.P.C. on behalf of the petitioner/accused-Sunil @ Nepali in case FIR No.09 dated 10.01.2015, under Section 17 of the Narcotic Drugs and Psychotropic Substances Act (Section 20, NDPS Act added later on), registered with Police Station City Gohana, District Sonapat.

There is a recovery of 11 Kgs. and 200 Grams of *ganja* leaves from the petitioner/accused-Sunil @ Nepali and his co-accused/non-applicants Sunil and Muna Lal while traveling on a motorcycle.

It is contended that the *ganja* leaves being without the flowering top are not covered under any provisions of the NDPS Act.

It is next submitted that the petitioner is in custody since 10.01.2015 and only 07 out of 15 prosecution witnesses have been examined so far. The petitioner is stated to be not involved in any other criminal case.

Learned State Counsel, assisted by ASI Krishan Chand, submits that as per the Notification dated 16.07.1996, as amended vide Notification

dated 19.10.2001, *Ganja* is covered under Item No.55 and more than 20 Kgs. of the said contraband is specified as commercial quantity. Thus, he concedes that the quantity involved is non-commercial. He also does not dispute the custody period, stage of the trial and the non-involvement of the petitioner in any other case.

Without commenting on the merits of the case, keeping in view the custody period, non-involvement of the petitioner in any other criminal case, the seized quantity being non-commercial in nature and the fact that trial is not likely to be concluded in near future, this Court finds that petitioner/accused deserves the concession of regular bail and as such he is ordered to be released on bail to the satisfaction of CJM/Duty Magistrate concerned.

Disposed of.

May 20, 2016

Gagan

(JASWANT SINGH)
JUDGE