

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

**CRM-M No.11862 of 2017
Date of Decision: 11.05.2017**

Manbir Singh

.....Petitioner

Versus

State of Haryana

... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Kunal Dawar, Advocate
for the petitioner.

Mr. P.P. Chahar, DAG, Haryana.

RAJ MOHAN SINGH, J.

[1]. Petitioner has prayed for regular bail in case bearing FIR No.70 dated 11.02.2017 registered under Section 20 of the NDPS Act at Police Station Mujessar, District Faridabad.

[2]. 13 kgs 600 grams of Ganja is alleged to have been recovered from the petitioner. The alleged recovery is claimed to be non-commercial in nature.

[3]. Learned counsel for the petitioner submitted that the bail has been declined by the Additional Sessions Judge, Faridabad by not considering the fact that the alleged recovery is non-commercial in nature. Learned counsel further submitted that Cannabis plant and Cannabis (Hemp) are two different contrabands under NDPS Act (For short 'the Act'). Cannabis (Hemp) is defined under Section 2(iii) of the Act which includes Charas and Ganja and also any mixture with or without any

natural material of any of the above forms of Cannabis or any drink prepared therefrom.

[4]. Charas is defined under Section 2(iii) (a) of the Act which means separated resin, in whatever form, whether crude or purified form obtained from the Cannabis plant. Ganja is defined under Section 2(iii)(b) of the Act which is flowering or fruiting tops of the Cannabis plant (excluding seeds and leaves). Cannabis plant is defined under Section 2(iv) of the Act which means any plant of genus Cannabis.

[5]. From the aforesaid, it can be culled out that the Charas which is popularly known as Hashish is separated resin obtained from Cannabis plant (Hemp) either from natural discharge of resin through its pores or by means of incisions by human intervention. Therefore, Charas is not a Cannabis plant, but it is resin obtained from it, whereas Ganja is the flowering or fruiting tops of the Cannabis plant excluding the seeds and leaves. In view of above, learned counsel seeks to distinguish the contraband Ganja from that of Charas. Learned counsel relied upon **Manjee Vs. State of Rajashtan, 1996(2) RCR (Criminal) 258** and **Arjun Singh Vs. State of Haryana, 2004(4) RCR (Criminal) 506** in the aforesaid context.

[6]. Learned State counsel on instructions from Investigating Officer submitted that the petitioner was arrested

on 11.02.2017. 17.05.2017 is the date fixed for examination of prosecution witnesses. FSL Report is still awaited. There is no other case pending against the petitioner.

[7]. In view of above, without adverting to the merits of the case, I am of the tentative view that at this stage, petitioner can be granted regular bail in respect of alleged recovery which is less than 20 kgs meant for commercial quantity.

[8]. Let the petitioner be enlarged on regular bail, subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Faridabad.

[9]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

11.05.2017
prince

(RAJ MOHAN SINGH)
JUDGE

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No