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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No. 15940 of 2017

Date of Decision: 24.05.2017

Anup @ Chaliya

.....Petitioner

Vs

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

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

Mr. Pradeep Prakash Chahar, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under
Section 439 Cr.P.C in case bearing FIR No. 70, dated
11.02.2017, under Section 20 of the Narcotic Drugs and
Psychotropic Substances Act, 1985 (for short the N.D.P.S. Act),
registered at Police Station Mujessar, District Faridabad,

Haryana.

Learned counsel for the petitioner relied upon order dated 11.05.2017, passed in **CRM-M No. 11862 of 2017** titled **Manbir Singh Vs. State of Haryana**, to contend that the co-accused has been granted bail on the interpretation of contraband *Ganja*. 13 kgs. 600 gms. of *Ganja* is allegedly recovered from the co-accused, at whose disclosure statement the petitioner has been involved in the present case.

Learned counsel for the petitioner further submitted that Cannabis plant and Cannabis (Hemp) are two different contrabands under the N.D.P.S. Act. Cannabis (Hemp) is defined under Section 2 (iii) of the N.D.P.S. 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.

Charas is defined under Section 2 (iii) (a) of the N.D.P.S. 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 N.D.P.S. 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 N.D.P.S. Act, which means any plant of genus Cannabis.

On the strength of **Manjee Vs. State of Rajasthan, 1996 (2) R.C.R. (Criminal) 258** and **Arjun Singh Vs. State of Haryana, 2004 (4) R.C.R. (Criminal) 506**, learned counsel for the petitioner seeks to distinguish contraband *Ganja* from *Charas*.

Learned State counsel on instructions from A.S.I. Kailash admitted the factum of passing of order dated 11.05.2017, in the context of aforesaid distinction drawn in aforesaid **Manjee's and Arjun Singh's cases (supra)**.

Learned State counsel further stated that the Forensic Science Laboratory Report is still awaited. The petitioner is not involved in any other case.

In view of aforesaid, without adverting to merits of the

case, I am of the view that the petitioner can be granted regular bail, in respect of the alleged recovery, which is less than 20 kgs., meant for commercial quantity.

In view of above, petition is allowed. Petitioner is ordered to be enlarged on regular bail, subject to his furnishing adequate bail bonds/ surety bonds to the satisfaction of the Illaqa Magistrate.

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

May 24, 2017

Apurva

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No