

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

**Crl. Misc. No.M-40125 of 2017 (O&M)
Date of Decision: November 01, 2017.**

Kamli Devi

.....PETITIONER(s).

VERSUS

State of U.T., Chandigarh

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Jasbir Singh Dadwal, Advocate
for the petitioner (s).

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 124 dated 05.07.2017 registered for the offence punishable under Section 20 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Maloya, U.T., Chandigarh.

Heard.

Notice of motion.

On asking of the court, Mr. Anil Kumar Lamdharia, Additional P.P., U.T. Chandigarh for Mr. Y.S.Rathore, P.P. for U.T., Chandigarh, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with him.

Learned counsel for the petitioner argues that recovery from the

petitioner is of 20Kg.800grams of *Ganja*. Ganja upto 20 Kg. falls under non-commercial quantity. The police had weighed contraband along with bag and there is every possibility that the bag was more than 1Kg of weight. He further argues that on the same day, a raid was conducted at the house of petitioner and the Investigating Officer SI Satwinder Kumar was present there and in this regard report of DSP/CPIO-Comm., PHQ, U.T., Chandigarh (Annexure P-1) has been placed on file. The petitioner was arrested at about 8:15 a.m. on the same day.

Learned State counsel appearing for U.T., Chandigarh does not dispute the contention of learned counsel for petitioner that the contraband recovered from the petitioner was weighed along with plastic bag. This lends support to the contention of learned counsel for the petitioner that bag in which the contraband was kept may be of weight of more than 800 grams, a fact, which he could prove before the trial Court.

Keeping in view the above facts but without expressing any opinion on merits of the case, the present petition is allowed. Petitioner Kamli Devi is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of her absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel her bail bond and surety bond and proceed to procure her presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.

c. she shall not leave the country without the prior permission of the Court.

(SURINDER GUPTA)
JUDGE

November 01, 2017
Jyoti-II

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>