

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-9382 of 2017

Date of Decision: 24.3.2017

Raj Kumar and another

....Petitioners

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr.Sandeep Kotla, Advocate
for the petitioner(s).

Mr.Tanuj Sharma, AAG, Haryana.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioners in case FIR No.24 dated 30.1.2017 registered for the offences punishable under Sections 20 of the NDPS Act at Police Station Matlauda, District Panipat.

Heard.

As per prosecution case, the petitioners were found in possession of a bag containing 25 KG of “Ganja Bhang Patti”, i.e., green leaves of cannabis plant. The sample has been sent to the Chemical Examiner but no report has been received so far.

Section 2(b) of the NDPS Act defines “Ganja” as follows : -

“...the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be known or designated;”

It is yet to be proved by the prosecution as to whether recovery effected from the petitioner falls within the definition of “Ganja” as given above. It is nowhere mentioned in FIR that the leaves recovered from petitioner were “flowering or fruiting tops” of the cannabis plant.

Keeping in view the above facts but without expressing any opinion on merits of the case and the fact that conclusion of trial will take considerably long time, the present petition is allowed. Petitioners Raj Kumar and Ravi Dass are ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- (a) The petitioners shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of their absence on any date of hearing, the benefit of bail allowed to the petitioners shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality, the petitioners shall have to apply for bail afresh.
- (c) They shall not leave the country without the previous permission of the Court.

March 24, 2017

Paritosh Kumar

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No