

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 30028 of 2017 (O&M)

Date of decision : 1.5.2018

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Bir Singh

.....Petitioner

vs.

State of Haryana

.....Respondent

**Coram: Hon'ble Mr. Justice H. S. Madaan**

Present: Mr. D.S. Pheruman, Advocate  
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

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**H. S. Madaan, J.**

This petition for regular bail has been filed by petitioner – Bir Singh, an accused in FIR No. 125 dated 27.2.2017, for offences under Sections 20/61/85 of NDPS Act, registered at Police Station Hodal, District Palwal.

Briefly stated, facts of the case, as per prosecution story are that on 27.2.2017 when apprehended by Police Party from Police Station Hodal, District Palwal, the petitioner was down loading three bags containing 68.350 grams of ganja from the tractor for taking those to his house. He was arrested in this case. Formal FIR was registered. After completion of investigation he has been challaned

and is now facing trial.

The petitioner had moved an application for grant of regular bail before the Court of Sessions, which was however, dismissed by the Additional Sessions Judge, Palwal, vide order dated 2.8.2017, as such he has approached this Court for grant of similar relief, which request is being opposed by the State counsel.

I have heard learned counsel for the petitioner, learned State counsel, besides going through the record.

Admittedly, the recovery of contraband in this case amounts to commercial quantity, which attracts the provisions of Section 37 of the NDPS Act, which reads as under:-

*37. Offences to be cognizable and non-bailable.*

*(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)*

*(a) every offence punishable under this Act shall be cognizable;*

*(b) no person accused of an offence punishable for 2[offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless*

*(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and*

*(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are*

*reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.*

*(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail.]”*

Therefore, the other contentions raised by learned Counsel for the petitioner that complete challan was not filed in the court since chemical report was not attached with the challan when presented in the court; the valid grounds were not available to the Special Court to extend the period for completion of investigation; that samples had not been drawn from the recovered contraband properly, would be seen during the trial and effect thereof noticed. But as the things stood, petitioner is certainly not entitled to be released on bail. The trial against the petitioner is going on which is likely to be completed in near future.

No ground for grant of regular bail to the petitioner is made out. Therefore, the petition stands dismissed.

**1.5.2018**  
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**( H.S. Madaan )**  
**Judge**

Whether speaking / reasoned                      Yes / No

Whether reportable                                      Yes / No