

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

CRM No.M-6275 of 2019 (O&M)

Date of Decision: April 09, 2019

Sultan Singh

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Aman Pal, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.394 dated 12.09.2018 under Sections 20 and 29 of the NDPS Act, registered at Police Station Kurukshetra University, Kurukshetra.

Notice of motion.

Mr.Navdeep Singh, AAG, Haryana, has put in appearance on behalf of the respondent-State and contested the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

As per prosecution version, 31 kgs. of ganja has been recovered in this case, which falls under commercial quantity. Learned counsel for the petitioner argued that as per FSL report, article/sample has been described

seeds'. Learned counsel for the petitioner relied upon the judgment passed by this Court in *Sudhir vs. State of Haryana, 2008(4) RCR (Criminal) 385*, in which, it is held that only flowering and fruiting tops come within the definition of ganja and not the seeds and leaves. In addition of flowering or fruiting tops, the contents of the bags included seeds and leaves of the cannabis also, therefore, actual weight of ganja could not be determined.

In view of the above-cited judgment, I find that in the present case, seeds have also been found in the material/recovery, which does not fall in the definition of ganja. Therefore, actual weight for the purpose of determining commercial quantity, cannot be determined.

Therefore, by giving benefit of doubt to the petitioner, whether recovery falls under commercial quantity or not, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds in the sum of ₹40,000/- with one surety in the like amount to the satisfaction of the trial Court/Duty Magistrate.

However, nothing stated above, shall constitute my opinion on merits of the case.

April 09, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No