

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-17940-2019 (O&M)

Date of Decision:- 21.5.2019

Gaurav

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Parminder Singh, Advocate, for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

GURVINDER SINGH GILL, J. (Oral)

1. By way of filing this petition, the petitioner seeks grant of regular bail in respect of a case registered vide FIR No. 71 dated 3.2.2019 at Police Station Quilla, Panipat, under Section 20 of NDPS Act.
2. The case of the prosecution is that on 3.2.2019, when the police party was patrolling in the area of Panipat, then the petitioner was seen coming on foot carrying a black coloured plastic bag on the shoulder and who upon noticing the police party tried to turn back. The petitioner/accused was however, apprehended. A search of the bag carried by the petitioner yielded recovery of “ganja patti” weighing 4.2 kgs.

3. Learned counsel for the petitioner has submitted that “Ganja Patti” cannot be called as a contraband and in this context has referred to the definition of ‘Ganja’, as described in Section 2 (iii)(b) of NDPS Act, which reads as follows:

“iii. “cannabis (hemp)” means –

a

b ganja, that is, 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; and”

4. Learned counsel for the petitioner has further submitted that even if the recovered “ganja patti” is treated as ‘ganja’, still the same would not fall within the category of ‘Commercial Quantity’ and that in these circumstances the petitioner in any case deserves the concession of bail.
5. Opposing the petition, learned State counsel has submitted that since the FSL report is awaited and the petitioner is involved in another identical case, no case for grant of bail is made out.
5. Having heard rival submissions addressed before this Court and while bearing in mind the fact that even if the recovered contraband is taken to be ‘ganja’, still the same would fall within intermediate quantity being less than 20 kgs, and since Challan is already stated to have been filed, no useful purpose would be served by further detaining the petitioner behind bars. The petition, as such, is

accepted. Petitioner Gaurav is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

6. This present petition stands accepted accordingly.

May 21, 2019

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No