

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

CRM-M-38034-2018 (O&M)

Date of Decision:- 23.1.2019

Sumitra

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rakesh Kumar Lathwal, Advocate with
Mr. Man Mohit Malik, Advocate, for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in case registered vide FIR No.80, dated 22.3.2018, registered at Police Station Civil Line, District Sonipat, under Section 20 NDPS Act.
2. The allegations, in nutshell, are that the petitioner was found in possession of 1.3 KGs of 'Ganja Patti'. The learned counsel for the petitioner has submitted that since it is a case where as per the FIR, the petitioner was found in possession of 'Ganja leaves' only, the same would not attract any offence under Section 20 of the NDPS Act as 'Ganja leaves' cannot be said to be "cannabis". Learned

counsel in this context has referred to the definition of cannabis as defined in Section 2(iii) of NDPS Act which reads as follows:

“(iii) “cannabis (hemp)” means

- (a) charas, that is, the separated resin, in whatever form, whether crude or purified, obtained from the cannabis plant and also includes concentrated preparation and resin known as hashish oil or liquid hashish;
- (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
- (c) any mixture, with or without any neutral material, of any of the above forms of cannabis or any drink prepared therefrom;”

3. Opposing the application, learned State counsel has submitted that petitioner is a habitual offender and already stands convicted in another case under the NDPS Act and is also facing trial in yet another case under NDPS Act. Learned State counsel has however informed that as many as 7 PWs out of the cited 11 PWs have already been examined.

4. I have considered rival submissions addressed before this Court and have also perused and report of FSL, as per which the sample has been identified as ‘Ganja’ although the percentage of “Tetrahydrocannabinol” has not been defined. Although, the learned counsel for the petitioner has submitted that in absence of any evidence regarding the percentage of Tetrahydrocannabinol, it cannot

be said with certainty as to whether the alleged contraband was “Ganja” or was ‘Bhang’ but this Court would not like to comment upon the same, at this stage. However, bearing in mind the fact that the petitioner has been behind bars since the last about 9 months and the recovery is of 'non-commercial' quantity of ‘Ganja’, no useful purpose would be served by further detaining the petitioner behind bars. The petition, as such, is accepted and petitioner-Sumitra is ordered to be released on regular bail on her furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

6. This petition stands accepted accordingly.

January 23, 2019
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No