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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.3570 of 2020

Date of Decision: 11.08.2020

Kehar Singh

.....Petitioner

Vs

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vikas Bishnoi Godara, Advocate
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.232 dated 03.07.2019, registered under Sections 20, 27-A, 61, 85 of the NDPS Act at Police Station Narnaund, Distt. Hansi, Haryana.

As per allegations in the FIR, the alleged recovery is of 20 kgs. 500 grams of Ganja from the petitioner.

Learned counsel for the petitioner seeks to distinguish the contraband *Ganja* from *Charas* on the strength of **Manjee**

Vs. State of Rajashtan, 1996(2) RCR (Criminal) 258 and

Arjun Singh Vs. State of Haryana, 2004(4) RCR (Criminal)

506. In order to support his arguments, learned counsel submitted that Cannabis plant and Cannabis (Hemp) are two distinct contrabands under the NDPS Act (for short 'the Act'). Cannabis (Hemp) is defined under Section 2(iii) of the Act which includes Charas and Ganja and also any mixture with or without any natural material of any of the above forms of Cannabis or any drink prepared therefrom. Charas is defined under Section 2(iii)(a) of the Act which means separated resin, in whatever form, whether crude or purified form obtained from the Cannabis plant. Ganja is defined under Section 2(iii)(b) of the Act which is flowering or fruiting tops of the Cannabis plant (excluding seeds and leaves). Cannabis plant is defined under Section 2(iv) of the Act which means any plant of genus Cannabis. Charas is popularly known as Hashish which is a separated resin obtained from Cannabis plant (Hemp) either from natural discharge of resin through its pores or by means of incisions by human intervention.

On the basis of aforesaid study, learned counsel further submitted that Charas is not a Cannabis plant, but it is resin obtained from it, whereas Ganja is the flowering or fruiting tops of the Cannabis plant excluding the seeds and leaves.

On the other hand, learned State counsel on instructions from ASI Rawat Singh submitted that the Cannabis

plant/ganja falls under purview of NDPS Act and no such distinction can be made at this stage.

Petitioner is in custody since 05.07.2019. FSL report has also been received. Challan has been presented. Charges have been framed, but no prosecution witness has been examined so far. It would be debatable as to whether the Ganja can be treated at par with charas under Section 20 of the NDPS Act. Reference can be made to CRM-M No.11862 of 2017 titled '*Manbir Singh vs. State of Haryana*' decided on 11.05.2017.

In view of aforesaid position and in view of the situation arising out due to pandemic COVID-19 and also without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

August 11, 2020

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No