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(1) CRM-M-3805-2019

....Petitioner.

State of Punjab

....Respondent.

(2) CRM-M-3837-2019

....Petitioner.

State of Punjab

....Respondent.

(3) CRM-M-4454-2019

....Petitioners.

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

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Mr. Ramdeep Partap Singh, Deputy Advocate General, Punjab.

Suvir Sehgal, J. (Oral)

Prayer in these three petitions under Section 439 Cr.P.C. is for grant of regular bail to the petitioners in case FIR No.208 dated 07.11.2018 under Section 20 of NDPS Act, registered at Police Station Shahkot, District Jalandhar Rural.

Learned counsel for the petitioners have relied upon the order dated 28.05.2018 passed by Hon'ble Division Bench of this Court in CRM-22440-2017 in CRA-D-163-DB-2017—Varinder Kumar Vs. State of Punjab, wherein it was observed as under:-

“For the purpose of Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”), which provides punishment for contravention in relation to cannabis plant and cannabis and the definition of cannabis and cannabis plant under Section 2 (iii)(a)(b)(c) and Section 2(iv) of the NDPS Act defining cannabis plant, we have taken into consideration the fact that any quantity above 1 kg containing Tetrahydrocannabinol would be “Charas”. Any quantity above 20 kgs. containing Tetrahydrocannabinol would be “Ganja”, whereas for “Bhang”, there is no commercial quantity prescribed.

Counsel for the applicant-appellant has referred to Parikh's Textbook of Medical Jurisprudence, Forensic Medicine and Toxicology as discussed in the judgment Nagender Shah Versus State of H.P. by a Division Bench of Himachal Pradesh High Court reported as 2010(4) R.C.R. (Criminal) 194, to clarify that in case of “Bhang”, Tetrahydrocannabinol in the sample stuff would be 15% and in the case of “Ganja,” it would be 25% and in case of “Charas”, it would be between 25 to 40%.”

The Forensic Science Laboratory report dated 27.12.2018 shows that the contraband recovered contains 23.17% of Resin Extract. In view of the above reproduced observations, it would be a case of alleged recovery of 'Ganja'.

Learned counsel for the petitioners submitted that the

petitioners are in custody since 07.11.2018 and no other case is pending

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against the petitioners. He has further contended that the Innova, from which the recovery was effected, was owned by Tarsem Singh (petitioner in CRM-M-3805-2019), driven by Baljinder Singh (petitioner in CRM-M-3837-2019) and two other occupants were Raja Singh @ Raja and Pala Singh @ Veeru (both petitioners in CRM-M-4454-2019).

On the other hand, learned State counsel submits that the challan was presented on 06.03.2019 and charge against the accused persons was framed on 26.03.2019 and 4 out of 10 prosecution witnesses have been examined till then.

I have considered the rival submissions.

The petitioners are behind the bars for the last more than one year and two months and there is no other case pending against them. The trial of the case will take some time and further detention of the petitioners will not serve any useful purpose.

Accordingly, all the three petitions are allowed. Petitioners are ordered to be admitted on regular bail on furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court.

(SUVIR SEHGAL)
JUDGE

20.01.2020

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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No