

201 **IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M- 8526-2020 (O&M)

Date of decision : 11.06.2020

Harish

... Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Sandeep Kotla, Advocate
for the petitioner.

Mr. Vikrant Pamboo, DAG Haryana.

(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. The petitioner is seeking regular bail in FIR No. 969 dated 22.09.2018, registered under Section 20, Rule 61 of Narcotic Drugs and Psychotropic Substances Act, 1985(for brevity, the Act), Police Station Sadar, Hisar.

2. The prosecution case is that on 22.09.2018, on the basis of a secret information, the police party intercepted canter bearing registration No. HR21F-0291 and on checking six persons(including present petitioner) were apprehended at the spot while one person made good his escape. On search of canter, 9 quintals of “Ganja” was recovered.

3. Learned counsel for the petitioner submits that the petitioner is in custody since 22.09.2018. As per prosecution, he was found merely sitting in the cabin of canter. He was not in conscious possession of “Ganja”. According to him, it was actually Ganja leaves which do not fall under the definition of narcotics, per the Act, *ibid*. He further points out that co-accused Jai Singh,

who was also apprehended by the police while sitting in the cabin of canter has already been enlarged on bail by this Court vide order dated 09.01.2020 passed in CRM-M-38649 of 2019. He submits that two of the other co-accused have also been granted regular bail by the trial Court.

4. Notice of motion.

5. Mr. Vikrant Pamboo, DAG Haryana, who has joined the proceedings on service of advance copy of petition, accepts notice and opposed the prayer. He submits that trial has already commenced and some of the witnesses have been examined. On a query posed by this Court, learned State counsel does not controvert the submission of learned counsel for the petitioner that similarly placed co-accused have been enlarged on bail.

6. The petitioner is in custody since 22.09.2018. The submissions of learned counsel for the petitioner that the material recovered does not fall within the scope of Act, *ibid*; and that the petitioner was not found in conscious possession of the material, are moot questions, *inter alia*, required to be dealt by the trial Court. The trial will take long time to conclude. Therefore, without adverting to the merits of the case, I am of the considered view that on the ground of parity the petitioner is entitled to the benefit of regular bail.

7. In the premise, petition is allowed. The petitioner is ordered to be released on regular bail subject to his furnishing bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/ Duty Magistrate, Hisar.

11.06.2020
Jiten

1. Whether speaking/ reasoned:
2. Whether reportable:

(ARUN MONGA)
JUDGE
Yes/ No
Yes/ No