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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.8529 of 2020
Date of Decision: 05.03.2020**

Rajesh

.....Petitioner

Vs

State of Haryana

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Rajesh Bansal, Advocate
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.514 dated 15.08.2019 registered under Section 20 of the NDPS Act at Police Station Samalkha, District Panipat.

The FIR was registered on the basis of secret information. The prosecution case is that Madan took some land on lease from one Ishwar including a kotha where raid was conducted. 330 kgs of ganja patti was recovered from plastic bags lying in a room constructed in the field belonging to Ishwar. On seeing the police party, Madan fled away from the spot and the

petitioner was arrested from the spot.

Madan has been granted regular bail by this Court on 23.01.2020 passed in CRM-M No.52934 of 2019. The conscious possession of the contraband viz-a-viz the title of the land from where it was recovered would remain debatable in the present case. It would also be debatable as to whether recovery of Ganja would fall at par with Charas under Section 20 of the NDPS Act in view of order dated 11.05.2017 passed in CRM-M No.11862 of 2017 titled Manbir Singh Vs. State of Haryana.

Learned counsel for the petitioner 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.

From the aforesaid, it can be seen that the Charas which is popularly known as Hashish 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. Therefore, 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 basis of aforesaid proposition, learned counsel 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***.

Learned State counsel on instructions from ASI Fateh Singh states that challan has been presented. Petitioner is in custody since 15.08.2019. Supplier has also been arrested and investigation is pending qua Manik.

The trial of the case may take some time in its culmination.

In view of the above, without adverting to the merits of the case, it will be just and expedient to grant benefit of regular bail to the petitioner.

Let the petitioner be enlarged on regular bail, subject to

his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

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

05.03.2020

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No