

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

**CRM-M-14510-2020 (O&M)**

**Date of decision: 06.08.2020**

**Kartik Mishra**

**...Petitioner**

**Versus**

**State of Haryana**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Brijender Kaushik, Advocate  
for the petitioner.

Mr. Kuldeep Tiwari, Addl. A.G., Haryana.

**ARVIND SINGH SANGWAN, J. (Oral)**

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 61 dated 20.02.2020, registered under Section 20 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Sector 14, District Panchkula.

Learned counsel for the petitioner submits that as per the allegations in the FIR, registered at the instance of SI Jagdish Chander, the petitioner was apprehended on suspicion and on opening the bag, which he was carrying, a green leafy item was found and on smelling the same, it was found to be an intoxicant article. Thereafter, the recovery memo was prepared and the petitioner signed on the same. Later on, the recovered item was found to be Ganja and on weighment of the same, it was found to be 1.5 Kg.

Learned counsel for the petitioner further submits that in fact the complainant and the Investigating Officer are the same person and a

perusal of the FIR shows that after the recovery was effected and recovery memo etc. were prepared, an information was sent to the police station for registration of the FIR and no second investigating officer was called at the spot.

Learned counsel further submits that even it will be a debatable issue whether in case of chance recovery when the personal search of the accused was conducted, the provisions of Section 50 of the NDPS Act would come into play or not.

Learned counsel further submits that the petitioner is a first offender; he is not involved in any other case and the recovery is of non-commercial quantity.

Learned State counsel could not dispute the factual position that the petitioner is not involved in any other case and that the recovery is of non-commercial quantity and submitted that no prosecution witness has been examined so far.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the parties, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

**06.08.2020**

*Waseem Ansari*

**(ARVIND SINGH SANGWAN)  
JUDGE**

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*