

205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18656-2020
Date of Decision: 16.09.2020

RAMA RAM

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Narinder Singh Dadwal, Advocate for the petitioner.

Mr. H.S.Multani, AAG Punjab.

*(The case has been taken up through video conferencing on
account of Covid-19 pandemic)*

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VIVEK PURI, J. (ORAL)

The petitioner has prayed for grant of regular bail in case FIR No.133 dated 3.10.2019, under Sections 18, 25 of NDPS Act, 1985 registered at Police Station City-2 Mansa, District Mansa.

Briefly, the FIR has been registered on the basis of the allegations that on 3.10.2019, the petitioner along with the co-accused namely Giana Ram were apprehended while travelling on a motor-cycle. 2 Kg 700 gms of opium was recovered from Giana Ram whereas 2 Kg 600 gms of opium was recovered from the petitioner.

It has been contended by learned counsel for the petitioner that quantity of contraband exclusively recovered from the possession of the petitioner is marginally above the commercial quantity, he is in custody since 3.10.2019 and no other case has been registered against him.

On the contrary, learned State counsel has vehemently opposed

the bail application and has argued that in the instant case, both the accused were travelling on a motor-cycle and the recovery effected from both of them has to be clubbed for the purpose of working out the quantity of contraband. In the instant case, the total recovery of opium is to the extent of 5 Kg 300 gms which cannot be termed to be marginally above the commercial quantity.

In this regard, it can be noted with significance that in a decision dated 21.8.2020 rendered in **CRM-M-13215-2020; titled as Rajo Vs. State of Haryana**, the question was as to whether the quantity (56 Kg) of poppy straw recovered from three sisters can be clubbed together for deciding whether or not their case involves the commercial quantity, attracting Section 37 of Act of 1985. It has been held in the aforesaid decision that it was not open to the petitioners to claim that they should be held to be in "conscious possession" of only the specified quantity that each of them was carrying.

The aggregate amount of the contraband being carried by both the accused has to be considered for determining the quantity and the same cannot be allowed to be segregated. It is pertinent to note that the petitioner along with co-accused were travelling together on a motor-cycle. Both were carrying opium and the total quantity of contraband recovered from both of them is to the extent of 5 Kg 300 gms. Consequently, it cannot be said that the quantity of contraband recovered from the possession of the petitioner is marginally above the commercial quantity or the provisions of Section 37 of the NDPS Act can be ignored.

In the instant case, stringent provisions of Section 37 of the

NDPS Act come into play. There is nothing to suggest that the petitioner has not committed the offence and is not likely to commit the offence while on bail.

Keeping in view the entire circumstances of the case, no justified ground is made out to extend the concession of bail to the petitioner.

For the aforesaid reasons, the present petition for regular bail is dismissed.

16.09.2020

Janki

**(VIVEK PURI)
JUDGE**

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