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

CRM M 36501 of 2020

Date of Decision: 7.12.2020

Asif

... Petitioner

Versus

State of Haryana

... Respondent

CORAM:- HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr.Surjeet Singh Sodhi, Advocate for the petitioner

Mr.Amrik Singh Narwal, DAG, Haryana

...

ASHOK KUMAR VERMA, J.

1. The matter is being taken up through Video Conferencing/WhatsApp due to pandemic of COVID-19.

2. This is a repeat (second) bail application filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case FIR No.63 dated 15.4.2019 registered under Sections 20 and 27 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the Act”) registered at Police Station Sanoli, District Panipat. Earlier bail application of the petitioner has been dismissed vide order dated 28.1.2020 (Annexure P-4) passed by this Court in CRM M 34446 of 2019.

3. As per the FIR, 21 Killo 100 Grams of Ganja leaves were recovered from the vehicle of the accused. As per disclosure statement,

premises of Mehtab alias Piru son of Hanif was also raided. The accused in pursuance of their disclosure statements also got recovered 11 Kilo 400 Grams Ganja leaves and the total weight of recovered contraband comes to 32 Kilo 500 grams, which clearly falls under the category of commercial quantity. Hon'ble Supreme Court in **State of Kerala Etc. Vs. Rajesh Etc.**, (Criminal Appeal No(S).154-157 of 2020 decided on 24.01.2020) has observed as under:-

“20. The scheme of Section 37 reveals that the exercise of power to grant bail is not only subject to the limitations contained under Section 439 of the CrPC, but is also subject to the limitation placed by Section 37 which commences with non-obstante clause. The operative part of the said section is in the negative form prescribing the enlargement of bail to any person accused of commission of an offence under the Act, unless twin conditions are satisfied. The first condition is that the prosecution must be given an opportunity to oppose the application; and the second, is that the Court must be satisfied that there are reasonable grounds for believing that he is not guilty of such offence. If either of these two conditions is not satisfied, the ban for granting bail operates.”

4. Keeping in view the above law laid down by the Hon'ble Supreme Court, this Court while dismissing the earlier bail application of the petitioner has observed that the bar of Section 37 of the NDPS Act will apply in this case.

5. Drug trafficking and such drug peddlers is a problem that has been increasing menacingly day by day and such persons are playing havoc

drugs. Drug trafficking leads to crimes and criminal behaviour and affects the health of the society. The charm of minting easy money by way of indulging in such drug trade is the root cause of this menace. It is well known that illegal rackets of sale of drugs are being run in the country but only a few of them are cracked by the law enforcement agencies.

6. In view of the foregoing discussions and in absence of any substantial change in the circumstances after rejection of the earlier bail application of the petitioner by this Court on 28.1.2020, this second bail application cannot be entertained by this Court and the same is hereby dismissed.

(ASHOK KUMAR VERMA)
JUDGE

7.12.2020

MFK

Whether speaking/reasoned

Yes

Whether Reportable

No