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

CRM-M No. 23499 of 2020
Date of Decision: 27.08.2020

Naseeb

-Petitioner

Vs

State of Haryana

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Karan Singh, Advocate,
for the petitioner.

Mr. Rajat Gautam, D.A.G., Haryana.

RAJ MOHAN SINGH, J. (ORAL)

The case has been taken up for hearing through video-conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.105 dated 22.04.2020 under Sections 20(B) (II-c), 61, 85, 27-A of NDPS Act registered at Police Station Uchana, District Jind.

As per allegations, 600 kg 300 grams of Ganja was allegedly recovered from the co-accused, who was nominated on the basis of disclosure statement of the petitioner.

Learned counsel for the petitioner contends that very nature of contraband being Ganja i.e. flowering or fruiting tops of the Cannabis plant excluding seeds and leaves would make it

distinct from charas.

He places reliance upon Manjee vs State of Rajasthan, 1996(2) RCR (Criminal) 258 and Arjun Singh vs State of Haryana, 2004(4) RCR (Criminal) 506.

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.

Per contra, learned State counsel on instructions from ASI Ram Pal submits that the petitioner is involved in four more cases, out of which three are under NDPS Act.

Challan has been presented, but charges have not been framed so far.

Learned counsel for the petitioner submits that in all other cases, petitioner is on bail.

Complicity of the petitioner would be debatable on the basis of aforesaid facts and circumstances of the case.

Petitioner is in custody since 22.04.2020.

Keeping in view the situation arising out of pandemic COVID-19 and without meaning anything on the merits of the case, petitioner is directed to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an opinion on the merits of the case.

27.08.2020
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No