

CRM-M No. 26774 of 2020

Date of decision : September 14, 2020

(Through Video Conferencing)

Hazuri Devi

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present:- Mr. Arjun Veer Sharma, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab
assisted by ASI Sukhan Pal.

Manjari Nehru Kaul, J (oral).

This is the second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner, in case FIR No. 196, dated 16.09.2019, under Section 20 of the NDPS Act, 1985, registered at P.S. Division No.7, District Ludhiana.

The earlier petition filed for grant of regular bail was dismissed as withdrawn just about two months back. Learned counsel for the petitioner has failed to bring to the notice of this Court any change in the circumstances after withdrawal of the first petition, which would warrant acceptance of his prayer for grant of regular bail.

Even on merits this Court is not inclined to extend the concession of regular bail to the petitioner as admittedly the recovery which was effected from the petitioner was on the basis of a secret information received by the police. In the secret information, her name was categorically mentioned and it was told that the petitioner was indulging in the trade of ganja from her home. Thereafter, in pursuance to the secret information, when the house of the petitioner was raided, recovery of 30 kg. of Ganja was effected from her house. The recovery effected undoubtedly falls within the category of 'commercial quantity' in the table at Sr. No. 55, of the notification specifying the small quantity and commercial quantity

dated 19.10.2011.

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Learned counsel for the petitioner has submitted that the recovery of 30 kg ganja allegedly effected, cannot be said to fall under 'commercial quantity'. He has further submitted that as per the Forensic Science Laboratory's report the sample which was sent to it was of '**greenish brown colour flowering top dried along with seed**'. Hence, it has been contended that while weighing the recovered contraband, the weight of the seeds should have been excluded to determine whether or not it fell under commercial quantity, but it was not done. He has contended that had it been done the weight of the contraband would have been less than commercial quantity. Learned counsel for the petitioner has further submitted that the mandatory provisions of the NDPS Act, were not complied with at the time of the alleged recovery of contraband from the petitioner.

Per contra, learned State counsel while opposing the grant of regular bail to the petitioners on instructions from ASI Sukhan Pal has apprised this Court that charges have not yet been framed and are likely to be framed in the near future and the next date before the trial court is 05.10.2020. The delay has occurred due to outbreak of the pandemic COVID-19. She has placed reliance on **Heera Singh Vs. Union of India, 2020 Volume-2 RCR (Criminal) 523** in which the Supreme Court while dealing with the same has observed that the total weight of the contraband has to be seen and not the individual ingredients in the contraband so recovered.

In the light of the aforementioned, no ground is made out to extend the concession of regular bail to the petitioner, more so, when the charges have not yet been framed.

Dismissed.

(MANJARI NEHRU KAUL)
JUDGE

September 14, 2020
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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No