

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

Sr. No.201

CRM-M-28901-2020 (O&M)

Date of Decision: 05.11.2020

ABID

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Farukh Abdullah, Advocate,
for the petitioner.

Ms. Harpreet Kaur, Assistant Advocate General, Haryana.

ARCHANA PURI, J.

The matter has been taken up through video conferencing in the
light of COVID-19 pandemic.

CRM-23602-2020

Present application has been filed under Section 482 Cr.P.C.
seeking exemption from filing original Power of Attorney, as the same is
not available to the counsel due to COVID-19.

In view of the averments made in the application, same is
allowed.

Main Case

Present petition has been filed under Section 439 Cr.P.C, read
with Section 482 Cr.P.C. for grant of regular bail to the petitioner in case
bearing FIR No.192 dated 31.05.2020 under Section 20 of Narcotic Drugs
and Psychotropic Substances Act, registered at Police Station Hodal,
District Palwal.

In consonance with the order dated 16.10.2020, reply has been
filed at the instance of respondent-State and the same is taken on record.

Heard on the bail petition.

As per the version of the prosecution, on 31.05.2020, from the car bearing No.DL-8-CT-7137, of which petitioner-Abid was occupant, recovery of 2 bags containing 10.484 kilograms and 10.500 kilograms, thus total about 21 kilograms of ganja, was made.

Now, it is submitted by learned counsel for the petitioner that the extent of recovery, so effected from the petitioner is marginally above the commercial quantity. As such, a prayer has been made for grant of regular bail. Also, it is submitted that even though, it is the version of the prosecution that accused had been intercepted on 31.05.2020 i.e. on the day of alleged recovery, but however, his formal arrest has been shown on 04.06.2020. Thus, there is grave contradiction in the version of the prosecution.

However, the learned State Counsel has resisted the claim for grant of regular bail, as it is submitted that the extent of recovery of ganja, effected from the accused, falls in the category of commercial quantity. Also, it is stated that even though, challan has been presented in the present case, but the charge has not yet been framed. Thus, considering the same, it is submitted that the regular bail be not granted to the petitioner.

The extent of recovery effected from the petitioner falls in the category of commercial quantity. Even though, it is now submitted that it is marginally above the extent of commercial quantity, but however, considering the duration of detention of the petitioner, it is too premature to release the petitioner on regular bail. Challan has though been presented, but it is at initial stage, trial is yet to begin and charge has yet not been framed. So far as, the alleged contradiction of the date of arrest of the

petitioner is concerned, it is specifically so mentioned in the reply of Mr. Balbir Singh, Deputy Superintendent of Police, Hodal, District Palwal, which has been filed today, wherein it is stated that even though petitioner was intercepted on 31.05.2020, the day of alleged recovery, but however, he was quarantined due to Corona pandemic and after having his test for COVID-19, he was formally arrested on 04.06.2020, when his report came as 'Negative'.

Considering the aforesaid fact situation, it cannot be said that there is any grave contradiction in the date of arrest of the accused/petitioner herein. The rigors of Section 37 of Narcotic Drugs and Psychotropic Substances Act, is attracted to the alleged recovery. At this stage, there is nothing as such coming on record about the petitioner to have not committed the offence, so alleged, and that he is not likely to commit offence while he is released on regular bail.

Considering the same, at this stage, no case is made out for grant of regular bail. Consequently, the bail petition is hereby dismissed.

(ARCHANA PURI)
JUDGE

05.11.2020

Himanshu

Whether speaking/reasoned

Yes

Whether reportable

No