

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

CRM-M-32378-2020 (O&M)
Date of Decision:-15.10.2020

Munna alias Baba

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Kamal Chaudhary, Advocate for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in a case registered vide FIR No.275 dated 22.8.2020 under Sections 20/61 of NDPS Act at Police Station SGM Nagar, District Faridabad.
2. It is the case of prosecution that on 21.8.2020 when the police party headed by S.I. Yognender Singh was patrolling in the area of Patel Chowk, SGM Nagar, Faridabad, then a secret information was received to the effect that the petitioner along with co-accused Chunni Lal and Gopal were involved in sale and supply of '*Ganja Patti*' in Faridabad. They were planning to come towards Mulla Hotel from the side of Dabua Mandi, Masjid Chowk in their Wagon-R car bearing registration No. HR-38X-7513 so as to supply '*Ganja*'.
3. Pursuant to receipt of aforesaid information, the police swung into action and the police officials hid themselves near the nominated place. Shortly

thereafter, a person was seen at the nominated place, who was identified by the secret informer to be Munna @ Baba. After some time, a Wagon-R car came there from which co-accused Chunni Lal and Gopal came out and after taking out a white coloured bag from their car, they tried to handover the same to the petitioner. The police immediately apprehended all three of them alongwith the white coloured plastic bag, which was found to contain 20.5 kilograms of '*Ganja Patti*'.

4. The learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that even if the allegations, as levelled in the FIR are taken to be correct, still the petitioner cannot be attributed conscious possession of the recovered contraband as the same had not been handed over to the petitioner by the remaining co-accused and that there is nothing on record to show the complicity of the petitioner or any meeting of minds with the co-accused. The learned counsel has further submitted that the recovery, in any case, is marginally above the quantity prescribed for categorising it as 'commercial quantity' and that in these circumstances, the petitioner deserves the concession of bail.
5. Opposing the petition, the learned State counsel has submitted that since the petitioner is specifically named in the FIR and was caught at the spot along with co-accused, who were all found in possession of 20.5 kilograms of '*Ganja Patti*', no case for grant of bail is made out. The learned State counsel has further submitted that the petitioner happens to be involved in one more case registered under NDPS Act.
6. I have considered rival submissions addressed before this Court.

7. Having regard to the facts and circumstances of the case, it would be debatable as to whether the petitioner to whom the contraband was to be passed on at the spot can be attributed conscious possession of the contraband when he along with his two co-accused who are stated to be suppliers were apprehended. In these circumstances, the petition deserves to be accepted and the petitioner, as such, is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
8. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

15.10.2020

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No