

TAKDIR

...PETITIONER

VERSUS

UT, CHANDIGARH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Anuj Sood, Advocate
for the petitioner.

Mr. Lalit K. Gupta, APP, UT, Chandigarh.

*(The case has been taken up through video conferencing on
account of Covid-19 Pandemic)*

VIVEK PURI,J. (ORAL)

The petitioner has prayed for grant of regular bail in FIR bearing No.16 dated 21.01.2020 under Section 20 of NDPS Act, registered at Police Station West Sector-11, Chandigarh.

Briefly, the allegations has putforth are to the effect that on 21.01.2020 the petitioner alongwith the co-accused namely, Jagdish were apprehended by the police while they were carrying two bags. On seeing the police party they tried to throw the bag. From the search of the bags 20 kg 600 grams and 20 kg 500 grams of "Ganja" was recovered.

It has been contended by the learned counsel for the petitioner that the quantity of contraband exclusively recovered from the possession of the petitioner is 20 Kg 600 grams which is marginally above the commercial quantity. He is in custody since 21.01.2020 and no other case has been registered against him.

On the contrary, learned State counsel has vehemently opposed the bail application and has argued that in the instant case, the petitioner alongwith the co-

been clubbed for the purpose of working out the quantity of the contraband. In the instant case, the total quantity of the contraband is to extent of 41 Kg 100 grams which cannot be termed to be marginally above the commercial quantity. It has also been pointed out by the learned State counsel that the earlier bail application of the petitioner was dismissed as withdrawn on 17.07.2020 in this Court. Subsequently, he presented another bail application in the Court of learned Additional Sessions Judge, Hoshiarpur and the same was also dismissed as withdrawn on 22.12.2019 and thereafter without getting any order on merits the petitioner has again approached this Court within a short period of time.

In this regard, it can be noted with significance that in a decision dated 21.08.2020 rendered in **CRM-M-13215-2020, titled as Rajo Vs. State of Haryana**, the question was as to whether the quantity (56Kg) of poppy straw recovered from three sisters can be clubbed together for deciding whether or not their case involves the commercial quantity, attracting Section 37 of the NDPS Act. It has been held in the aforesaid decision that it was not open to the petitioners to claim that they should be held to be in “conscious possession” of only the specified quantity that each of them was carrying.

The aggregate amount of the contraband being carried by both the accused has to be considered for determining the quantity and the same cannot be allowed to segregated. It is pertinent to note that the petitioner alongwith the co-accused were coming together and were carry contraband with them. Consequently, it cannot be said that the quantity of contraband recovered from the possession of the petitioner is marginally above the commercial quantity.

In the instant case, the stringent provisions of Section 37 of the NDPS Act come to play. There is nothing to suggest that the petitioner has not committed the offence and is not likely to commit the offence while on bail.

ground is made out to extend the concession of bail to the petitioner.

For the aforesaid reasons, the present petition for regular bail is dismissed.

06.11.2020
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No