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

**CRM-M-36498-2020
Date of Decision: 11.11.2020**

Rahish

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Vikas Kumar, Advocate,
for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

SUDIP AHLUWALIA, J. (ORAL)

The present petition has been filed under Section 439 of the Cr.P.C. by the petitioner, seeking regular bail in case FIR No.326 dated 09.12.2019, under Sections 20, 61 and 85 of the NDPS Act, registered at Police Station Pinangwan, District Nuh.

2. The petitioner was arrested on 17.05.2020. Contraband in the form of 22 kgs. and 400 gms. of *Ganja* was allegedly recovered from his house, in his absence, by the Police Authorities. It may be mentioned that according to the FIR, a secret information was received regarding involvement of one Jamil, son of Shaukat Ali, who was allegedly a Drug Peddler. When the Police raided his house, the same was found under lock and key, and it was learnt that said Jamil had shifted to the house of the petitioner, who is his own sister's husband. The Police, thereafter, raided the petitioner's house. No male

member was present there. However, the petitioner's wife, namely Shabnam, was allegedly present, who ran away from there, when the Police started searching the house. The aforesaid contraband was thereafter recovered, but in the absence of any other witness or member of the concerned house.

3. In the aforesaid background, submission of Ld. Counsel for the petitioner is that it cannot be said that any recovery was effected from his conscious possession. Ld. Counsel has further emphasized that the recovery claimed to have been made is of 22 kgs. and 400 gms. of *Ganja*, which is marginally more than the commercial quantity of 20 kgs., and has relied upon various decisions of this Court, in which in similar circumstances the accused persons in custody were released on bail when the recovery was marginally above the commercial quantity. These reliance happen to be the decisions passed in **CRM-M-12849-2020**, titled as “**Baljit Kaur @ Baljito Vs. State of Punjab**”, decided on **04.06.2020**; **CRM-M-41242-2019** titled as “**Jagjit Singh @ Jagga Gill Vs. State of Punjab**”, decided on **27.02.2020**; **CRM-M-44675-2019** titled as “**Jagdeep Singh @ Happy Vs. State of Punjab**”, decided on **27.02.2020**; **CRM-M-2885-2020** titled as “**Talwinder Singh @ Happy Vs. State of Punjab**”, decided on **27.02.2020**; **CRM-M-37060-2018** titled as “**Manpreet Singh @ Mani Vs. State of Punjab**”, decided on **14.12.2018** and **CRM-M-31820-2019** titled as “**Karambir Vs. State of Haryana**”, decided on **28.08.2019**. In the decision passed in **CRM-M-31820-2019**, the Co-ordinate Bench of this Court has granted regular bail to the concerned petitioner, from whom the alleged recovery was of 22.5 kgs. of *Ganja*, which is slightly more than the recovery allegedly made in the present case.

4. The present bail petition has nevertheless been opposed on behalf of the State on the ground that the petitioner is involved in several other cases.

5. The detail of such cases is available in Para No.2 of the impugned order, passed by the Ld. Additional Sessions Judge, Mewat. It is seen that only one of those six cases pertains to the offences under the NDPS Act.

6. Ld. Counsel for the petitioner has sent up through e-mail a copy of concerned FIR No.37 of 2018, under Sections 20, 61 and 85 of the NDPS Act, registered at Police Station Pinangwan, on perusal of which, it is seen that the alleged recovery from the petitioner in the said case was of *Ganja*, weighing 460 gms. only, which is admittedly a small quantity.

7. In the totality of the above circumstances and considering that trial in the case has not yet commenced and the charges are yet to be framed, while as many as sixteen witnesses from the prosecution side have been cited, it is unlikely that in the prevailing Covid-19 pandemic, the trial can be completed within a reasonable period of time.

8. As such, without commenting any further on the merits of the present case as a whole and in view of the detention undergone by the petitioner, the prayer of the petitioner for regular bail is allowed and he is ordered to be released on bail, subject to appropriate terms and conditions to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

9. Disposed off.

11.11.2020

Apurva

(SUDIP AHLUWALIA)
JUDGE

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