

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-34446 of 2019

.....

Date of decision:28.01.2020

Asif and another

...Petitioners

v.

State of Haryana

...Respondent

....

Coram: Hon'ble Mr. Justice Ashok Kumar Verma

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Present: Mr. Sandeep Kotla, Advocate for the petitioners.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana
for the respondent-State.

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Ashok Kumar Verma, J.

The petitioners have filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.63 dated 15.04.2019 registered for the offences under Sections 20 and 27 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the NDPS Act') at Police Station Sanoli, District Panipat.

Notice of motion to Advocate General, Haryana.

Mr. Gaurav Bansal, learned Assistant Advocate General, Haryana has put in appearance on behalf of respondent-State and contested this petition.

I have heard learned counsel for the petitioners and learned

State counsel and have gone through the record.

As per the FIR, 21 Killo 100 Grams of *Ganja* leaves were recovered from the vehicle of the petitioners. As per disclosure statement, premises of Mehtab alias Piru son of Hanif was also raided. The accused in pursuance of their disclosure statements also got recovered 11 Kilo 400 Grams *Ganja* leaves and the total weight of recovered contraband comes to 32 Kilo 500 grams, which clearly falls under the category of commercial quantity. Hon'ble Supreme Court in **State of Kerala Etc. Vs. Rajesh Etc., Criminal Appeal No(S).154-157 of 2020**, (decided on 24.01.2020) has observed as under:-

“20. The scheme of Section 37 reveals that the exercise of power to grant bail is not only subject to the limitations contained under Section 439 of the CrPC, but is also subject to the limitation placed by Section 37 which commences with non-obstante clause. The operative part of the said section is in the negative form prescribing the enlargement of bail to any person accused of commission of an offence under the Act, unless twin conditions are satisfied. The first condition is that the prosecution must be given an opportunity to oppose the application; and the second, is that the Court must be satisfied that there are reasonable grounds for believing that he is not guilty of such offence. If either of these two conditions is not satisfied, the ban for granting bail operates.”

Keeping in view the above law laid down by the Hon'ble Supreme

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Court, the bar of Section 37 of the NDPS Act will apply in this case and the petitioner is not entitled to the benefit of bail.

Therefore, in view of the above discussion, I do not find any merit in this petition and the same is dismissed.

January 28, 2020.

(Ashok Kumar Verma)
Judge

hsp

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