

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

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**CRM-M-44898-2019 (O & M)
Date of Decision:18.09.2020**

RAJDEV GIRI

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.Surjit Singh Swaich, Advocate
for the petitioner.

Mr. Hittan Nehra, Addl. A.G., Punjab.

SUVIR SEHGAL, J.(ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Present petition has been filed under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.69, dated 13.07.2018 registered under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Balongi, District SAS Nagar, Mohali.

FIR in question was lodged against the petitioner as he was found to be in possession of 25 kgs Ganja and the petitioner was taken into custody on the same day.

Mr.Surjit Singh Swaich, learned counsel appearing for the petitioner has raised two-fold arguments. Firstly, he has argued that the offer made by the Investigating Officer to the accused was an 'invalid offer' inasmuch as the Investigating Officer had suggested to the petitioner that he either get himself searched before the Magistrate or a Gazetted Officer or the Investigating Officer could do this himself. By placing reliance upon the

Division Bench judgment of this Court in CRA-D-452-DB-2017 titled as

'Gurwinder Singh versus State of Punjab' decided on 19.03.2019, counsel contends that such an offer was in violation of Section 50 of the NDPS Act, 1985. Secondly, counsel has argued that the recovery effected from the petitioner was 25 kgs of 'ganja' which was marginally more than the quantity prescribed for non-commercial category. He has placed reliance upon the orders of this Court passed in CRM-M-25658-2012 titled as 'Lakhwinder Singh alias Bittu versus State of Punjab' on 05.12.2012; CRM-66005-2012 in CRA-S-923-SB-2012 titled as 'Shinda versus State of Punjab' on 09.05.2013 and CRM-M-44066-2019 titled as 'Pritam Kaur @ Bawi versus State of Punjab' on 31.01.2020. Counsel submits that the petitioner is behind bars since 13.07.2018 and he has been acquitted in the other case registered against him under the NDPS Act, therefore, he deserves the concession of regular bail, particularly in view of delay in trial due to the spread of the contagion.

Per contra, State counsel has urged that the recovery effected from the petitioner falls under the category of commercial quantity and the bar under Section 37 of the NDPS Act is attracted, therefore, the petitioner does not deserve the concession of regular bail. Upon specific instructions, he submits that challan was filed on 05.01.2019, charge has been framed and trial is underway. He has filed the custody certificate dated 17.09.2020. The same is taken on record.

I have considered the rival submissions.

Keeping in view period of incarceration of the petitioner, the quantity of contraband recovered and the fact that the conclusion of the trial is likely to take time due to the outbreak of Coronavirus (Covid-19) pandemic, no useful purpose would be served by keeping the petitioner in

further detention. Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate.

Henceforth, in case, the petitioner is found to be involved in any criminal activity, it will be open to the prosecution to seek cancellation of his bail.

18.09.2020
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned:	Yes/No
Whether Reportable :	Yes/No