

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-53095-2019

Date of Decision: 25.9.2020

Om Parkash

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Pankaj Kundra, Advocate
for the petitioner (s).

Mr. Kirpal Singh Thakur, AAG, Haryana.

KARAMJIT SINGH, J.(Oral)

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

Certain documents are produced by both the parties which are
taken on record.

The present petition has been filed under Section 439 Code of
Criminal Procedure for grant of regular bail to the petitioner in case FIR
No.746 dated 23.9.2018 registered for the offences punishable under
Sections 20 of NDPS Act at Police Station Sadar Palwal, District Palwal.

Heard.

The present FIR was lodged on the basis of statement ASI
Satbir on the ground that he received secret information regarding the
movement of i20 car having registration No.RJ40-CA-4186 and then the
road was barricaded and after sometime, the aforesaid car was seen coming

chased on which its driver ran away after getting out of the car in the area of village Phulwadi. On checking of the car, it was found to be containing two bags of *Ganjas*.

I have heard learned counsel for the parties.

As per recovery memo, the first bag was found to be containing 4 parcels weighing 5.100 KG, 2.690 KG, 1.570 KG and 5.250 KG respectively in total 14.720 KG. The second bag was found to be having 3 packets weighing 1.430 KG, 5.120 KG and 5.320 KG respectively in total weighing 11.940 KG. However, as per report of the FSL, only 2 samples were separated out of the two bags and the same were analysed in the laboratory. It is not clear that the said two samples are relating to which of the above said 7 packets of *Ganjas*. Even otherwise, in this case, the alleged recovery was not effected from the conscious possession of the petitioner who is in custody since August, 2019.

In the light of the above, this Court is of the view that the strict provisions of Section 37(1)(b) of NDPS Act are not attracted in this case as the samples were not withdrawn from all the 7 packets and rather were taken from only two packets of *Ganja*. The petitioner is already languishing in jail for the last more than one year. It is brought to the notice of this Court that the case is fixed for prosecution witnesses in the trial Court but the trial is not progressing due to Covid-19 situation.

So, this Court is of the view that no purpose is going to be served by keeping the petitioner in custody for any further period. Accordingly, without commenting on the merits of the case, this petition is allowed and the petitioner is directed to be released on bail pending trial

trial Court/CJM/Duty Magistrate, Palwal.

September 25, 2020

Paritosh Kumar

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No