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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.16942 of 2021
Date of Decision: 28.04.2021

VINOD MUKHIYA

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rajesh Gupta, Advocate
for the petitioner.

Mr. Anant Kataria, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.0086 dated 12.11.2020, registered under Section 20-B of the NDPS Act at Police Station GRP Ambala Cantt, District GRP, Ambala Cantt.

20 kgs. of ganja was allegedly recovered from the petitioner.

Learned counsel for the petitioner has made two-fold submissions. Firstly, he submitted that the weight of the

contraband was inclusive of the packing. Ganja upto 20 kgs. is non-commercial under Section 2(VII)(a) of the NDPS Act which means any quantity greater than the quantity specified by the Central Government by notification in the official gazette. As per Notification, 20 kgs. of ganja falls under the quantity of commercial quantity.

In view of aforesaid definition, the quantity greater than the quantity of 20 kgs. would be commercial, even though the weight was inclusive of packing and tape etc.

Learned counsel has raised second submission that is to say that the samples were sent for chemical examination after a delay of 25 days. In view of Notification No.1/88 issued by the Narcotics Control Bureau and the view expressed in **Union of India vs. Bal Mukund and others, 2009(2) R.C.R. (Criminal) 574** and **CRA-S No.1449-SB of 2008** titled **'Satpal vs. State of Haryana'** decided on 06.08.2012, the samples were required to be sent to the FSL within 72 hours.

On the basis of aforesaid submission, learned counsel for the petitioner submitted that the complicity of the petitioner would remain debatable.

Learned State counsel however opposed the bail on the ground that 20 kgs. of ganja falls under the commercial

quantity and the question of prejudice would be seen during trial on the basis of evidence to the led by the parties.

Having heard learned counsel for the parties, I feel that a case is made out for grant of regular bail in view of submissions made by learned counsel for the petitioner.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

April 28, 2021	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No