

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-38044-2021 (O&M)

Date of Decision:- 17.9.2021

Rakesh Kumar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rajesh Khandelwal, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Dinesh Kumar.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in a case registered vide FIR No.316, dated 4.6.2021, Police Station Barwala, Hisar, under Section 20(b) of NDPS Act.
2. The allegations of the prosecution, in nutshell are that the petitioner and co-accused Vinod were found in possession of 20 kgs of 'Ganja'.
3. Learned counsel for the petitioner submits that although the quantity prescribed as 'commercial quantity' as regards the contraband 'Ganja' is 20 kgs but in the instant case the recovered quantity cannot be said to fall in the category of 'commercial quantity' inasmuch as the recovered 'Ganja' in question was weighed along with the bag in

which it was found which would necessarily mean that the weighment 20 kgs included the weight of bag also necessarily implying that the recovered contraband would be less than 20 kgs and thus would fall in the category of 'non commercial quantity'.

4. The aforesaid position regarding the contraband having been weighed along with the bag is reflected from the recovery memo Annexure P-2 and is not disputed by the learned State counsel.
5. Learned State counsel has however, opposed the petition, while submitting that since, a substantial quantity of contraband has been recovered from the petitioner and his co-accused who were caught red-handed, no case for grant of bail is made out. Learned counsel has however, informed that the petitioner as on date has been behind bars since the last about 3 ½ months and that the petitioner stands involved in three other cases registered under the Excise Act. It has been informed that challan already stands presented.
6. I have considered rival submissions addressed before this Court.
7. Keeping in view the contention raised by learned counsel for the petitioner regarding weighment of the contraband along with the bag, it will certainly be debatable as to whether the recovered contraband can be said to be falling in the category of 'commercial quantity' as the total weight was found to be 20 kgs. In any case, since the petitioner has been behind bars for a substantial period of 3 ½ months and challan stands presented, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his

furnishing bail bonds to the satisfaction of learned trial Court/Chief
Judicial Magistrate/Duty Magistrate concerned.

17.9.2021
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No