

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

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CRM-M No.42436-2020

Date of decision:24.02.2021

Salim

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.Vikas Kumar, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

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

Petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.268, dated 10.07.2020 registered under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the Act”) at Police Station Ferozepur Jhirka, District Nuh.

As per the version of the prosecution, FIR was registered on the basis of a secret information, and a raid was conducted on a hut situated in Village Dhamala on Delhi-Alwar Highway. Recovery of 25 kg 400 grams of Ganja Patti was effected and the petitioner was arrested on the spot.

Counsel for the petitioner contends that petitioner is a 19 years

old boy and has been falsely framed. He has drawn the attention of the Court to the photograph, Annexure P-2 and submitted that the recovery has been effected from an open hut which does not belong to the petitioner and is located on a National Highway. He has placed reliance upon a certificate dated 15.08.2020, Annexure P-3, given by Sarpanch, Village Dhamala, who has certified that he personally knows the petitioner and he neither owns any hut nor he is involved in the selling of narcotic drugs. Still further, it is his submission that no independent witness was joined when the raid was conducted. Moreover, he submits that the recovery effected is marginally above the non-commercial limit laid down under the Act and the petitioner who is not involved in any other case, deserves to be enlarged on bail.

Per contra, learned State counsel, upon instructions from SI Kanwar Pal Singh, submits that the raid was conducted after serving notice under Section 50, *ibid*, and associating the Naib Tehsildar. The recovery was effected in the presence of the said Gazetted Officer. He has made a reference to the reply filed by way of affidavit of Deputy Superintendent of Police, Ferozepur Jhirka to submit that due compliance of the mandatory provisions of the Act was made. He has opposed the petition by drawing the attention of the Court to the bar contained under Section 37 of the Act. He has instructions to state that the FSL report has been received, challan has been presented on 11.10.2020 though the charge is yet to be framed.

I have considered the rival submissions of the parties.

The contraband recovered from the petitioner is marginally

above the threshold limit of non-commercial quantity as specified in the notification issued under the Act. Reliance can be placed upon the orders passed by this Court in *Rajdev Giri Vs. State of Punjab*, CRM-M-44898-2019, decided on 18.09.2020; *Rahish Vs. State of Haryana*, CRM-M-36498-2020, decided on 11.11.2020; *Karambir Vs. State of Haryana*, CRM-M-31820-2019, decided on 28.08.2019; *Jagjit Singh @ Jagga Gill Vs. State of Punjab*, CRM-M-41242-2019, decided on 27.02.2020 and *Baljit Kaur @ Baljito Vs. State of Punjab*, CRM-M-12849-2020, decided on 04.06.2020, wherein accused were enlarged on bail in cases where the alleged recovery was slightly more than the quantity prescribed for commercial category under the Act. Still further, it has not been disputed that the petitioner has clean antecedents.

Keeping in view the above facts and circumstances, period of incarceration of the petitioner, nature of allegation, gravity of offence and the fact that the trial is likely to take time to conclude, no purpose would be served by keeping the petitioner behind the bars any further.

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

It is further clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

24.02.2021

pooja saini

(SUVIR SEHGAL)
JUDGE

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