

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

CRM-M-43448-2020 (O&M)
Date of Decision:- 9.3.2021

Chunni Lal ... Petitioner
Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. H.S.Brar, Advocate, for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana,
assisted by ASI Rajesh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No. 275 dated 22.8.2020 under Sections 20/61 of NDPS Act at Police Station SGM Nagar, District Faridabad.
2. It is the case of prosecution that on 21.8.2020 when the police party headed by S.I. Yognender Singh was patrolling in the area of Patel Chowk, SGM Nagar, Faridabad, then a secret information was received to the effect that Munna alias baba along with petitioner-Chunni Lal and Gopal were involved in sale and supply of '*Ganja Patti*' in Faridabad. They were planning to come towards Mulla Hotel from the side of Dabua Mandi, Masjid Chowk in their Wagon-R car bearing registration No. HR-38X-7513 so as to supply '*Ganja*'.

3. Pursuant to receipt of aforesaid information, the police swung into action and the police officials hid themselves near the nominated place. Shortly thereafter, a person was seen at the nominated place, who was identified by the secret informer to be Munna @ Baba. After some time, a Wagon-R car came there from which Chunni Lal and Gopal came out and after taking out a white coloured bag from their car, they tried to handover the same to Munna alias Baba. The police immediately apprehended all three of them alongwith the white coloured plastic bag, which was found to contain 20.5 kilograms of '*Ganja Patti*'.
4. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and even if allegations as levelled in the FIR are taken to be correct, it may not be possible to hold that it is a case of recovery of 'commercial quantity' inasmuch as the contraband was weighed along with the bag and was found to be 20.5 kgs. whereas the quantity prescribed as 'commercial quantity' is 20 kgs. It has been submitted that the benefit of such irregularity ought to be given to the accused and as such the petitioner deserves the concession of bail particularly when challan already stands presented.
5. Opposing the petition, learned State counsel has submitted that since the petitioner was caught red-handed while in possession of a 'commercial quantity' of contraband, no case for grant of bail is made out. Learned State counsel has further informed that the petitioner is involved in 5 more cases.

6. Learned counsel for the petitioner has however, submitted that the earlier involvement of the petitioner has never been in any case registered under NDPS Act.
7. I have considered rival submissions addressed before this Court.
8. A perusal of FIR itself indicates that the recovered contraband was weighed along with the bag in which it was found that the total weight of the contraband along with bag was found to be 20.5 kgs which is marginally higher than the quantity prescribed as 'commercial quantity'. The petitioner, in any case has been behind bars since the last more than 6 months. It will be debatable as to whether the recovered contraband can be held to be falling in the category of 'commercial quantity' or not. In any case the recovered contraband is one of the mildest form of contraband and as such further detention of the petitioner will not serve any useful purpose as the trial is yet to commence. 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.
9. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

March 9, 2021
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No