

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

CRM-M-17336-2022 (O & M)

Date of decision: 18.07.2022

Pawan

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rohit Choudhary, Advocate, for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.267 dated 29.12.2021 registered under Section 20 (Act No.61) of Narcotic Drugs and Psychotropic Substance, 1985 Act (for short 'the NDPS Act') registered with Police Station Tigaon, District Faridabad.

2. The brief facts of the case are that a special informer came and informed the investigating agency that Pawan son of late Satvir, the present petitioner, was running a business of selling *ganja* and had at that time gone somewhere to bring *ganja* and would reach his house at Tigaon after sometime via Junheda road. If a barricading was done at Junheda road, then he could be nabbed red-handed with *ganja*. Based on the said complaint, an FIR came to be registered and the petitioner was apprehended. On his search, the recovery of 02 kgs. 490 grams of *ganja* was effected.

3. The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. In fact, no recovery had been effected from him. There was a violation of Sections 42 and 50 of the NDPS Act and various documents were pre-drafted/prepared prior to the arrest of the petitioner while sitting in the police station and not in his presence or after his arrest. He further contends that the recovery from the petitioner is of a non-commercial quantity of *ganja*, the commercial quantity being 20 kgs. It is lastly contended that the petitioner is in custody since 29.12.2021 and the trial is not likely to be concluded in the near future. Therefore, the petitioner deserves the concession of regular bail. Even otherwise, the rigours of Section 37 NDPS Act would not apply as the recovery is of non-commercial quantity of contraband.

4. The learned State counsel, on the other hand, while opposing the bail application states that there are two other cases FIR No. 134 dated 17.03.2021 under Sections 20/61/85 NDPS Act with Police Station Palla, Faridabad, where he was found to be in possession of 4.050 kgs. of *ganja* and FIR No. 238/2020 under Sections 20/61/85 NDPS Act with Police Station Tigaon, District Faridabad where he was found to be in possession of 320 grams of *ganja*. He, thus, contends that the petitioner does not deserve the concession of bail as he is a habitual offender.

5. I have heard the learned counsel for both the parties.

6. Admittedly, the recovery in the present case is of non-commercial quantity of contraband. There are certainly two FIRs against the petitioner. However, on a query, the learned counsel for the petitioner has produced the bail orders in both those cases, which are taken on record as 'Mark A and B'. The petitioner have been granted the concession of bail in each of the cases.

7. Keeping in view the fact that recovery in the present case is of non-commercial quantity of *ganja* as also the fact that the petitioner has been granted the concession of regular bail in the other two FIRs against him where, once again, the recovery is of non-commercial quantity of contraband as also the fact that the petitioner is in custody since 29.12.2021 and the trial of the case is not likely to be concluded in the near future, the further incarceration of the petitioner is not required. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Pawan, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

The petitioner shall appear on first Monday of every month before the local police station and shall furnish an affidavit each time that he is not involved in any case other than the three cases referred to in this order.

(JASJIT SINGH BEDI)
JUDGE

July 18, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No