

CRM-M-28929-2020 (O&M)
Date of decision-16.03.2022

Gobinda

....Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Parmod Kumar, Advocate for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.169 dated 27.07.2019 registered under Section 20-61-85 and 29 of NDPS Act, 1985 at Police Station Sector 14, District Panchkula. The petitioner is in custody since his arrest on 27.07.2019.

The contents of the FIR as noticed by the learned Additional Sessions Judge, Panchkula in order dated 24.06.2020 reads as under:-

“It is the case of prosecution that SI Rakesh Kumar got secret information to the effect that accused Govinda son of Piare Lal and Suraj deals in the narcotic substances and if the house of accused Govinda is raided, they may be apprehended with drugs. The police raided the house of Govinda son of Piare Lal and both the accused started running away from there, upon which they were apprehended. On the spot, two bags were found and on checking of said

bags, Ganja was recovered from the said bags. On weighment, one bag was found containing 11 Kg 100 Gm Ganja and other bag was found containing 19 Kg 300 Gm Ganja and in total, 30 Kg 400 Gm Ganja was recovered at that time.”

Learned counsel for the petitioner has argued the petitioner has been falsely implicated by the police, as initially 30 Kg 400 Gm Ganja was recovered from the co-accused namely Gobinda S/o Piare Lal and Suran S/o Ramphal and later on the petitioner was indicted as an accused. He has drawn the attention of the Court to the memo of identification dated 28.7.2019 (Annexure P-4) and submitted that the same is hand written, whereas the notice under Section 42 of NDPS Act dated 28.07.2019 (Annexure P-5) served upon the petitioner is a typed document. In support of his case, he has further relied upon the deposition of prosecution witness PW-2 (ASI Didar Singh) who clearly stated that the said notice under Section 42 of NDPS Act was prepared on the spot. According to him, at that time, there was no electricity and it shows that the petitioner has been falsely implicated. He prays for regular bail.

Learned State counsel assisted by ASI Mukesh Kumar has argued that initially the commercial quantity of 30 Kg 400 Gm Ganja was recovered from the two co-accused and subsequently on their disclosure, the police went to the house of the petitioner and a separate recovery of 25 Kg. of contraband was made from his house. He has argued that a notice under Section 42 of NDPS Act was prepared subsequently at police station and the statement of the witness ASI Didar Singh cannot be construed as a material discrepancy, particularly when the petitioner was arrested with the alleged

contraband. He states that out of 12 prosecution witnesses, 3 witnesses have been examined.

After hearing the learned counsel for the parties and considering the above background, this Court is of the opinion that the evidence recorded during trial would be appreciated by the trial Court at the stage of final adjudication and considering the seriousness of offence, particularly the nature and quantity of the contraband, this Court is not inclined to extend the concession of regular bail to the petitioner.

The petition is dismissed.

16.03.2022

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(MANOJ BAJAJ)
JUDGE

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