

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

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C R M - M - 41929-2022

Date of decision: 30.11.2022

Uddhav Khura

Petitioner

V/S

State of Haryana

Respondent

**CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. Priyanshu Kamra, Advocate for the petitioner.

Mr. Munish Sharma, Asstt. A.G., Haryana.

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**ASHOK KUMAR VERMA, J. (ORAL)**

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.760 dated 19.06.2022 registered under Sections 20B(ii)(C), 27A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Sadar Hisar, District Hisar.

Reply dated 20.10.2022 by way of an affidavit of Sh.Narain Chand, HPS, Deputy Superintendent of Police, Hisar-2 has already been filed in the Registry which is taken on record

Brief facts of the case are that on 19.06.2022, on the basis of a secret information, the police apprehended 02 persons, who were standing near crossing of canal of Village Gunjar. They were holding 03 plastic bags. On inquiry, they told their names as Dharampal and Gopi Ram. On search 17.5 kgs. Ganja in each bag (total 52.5 kgs.) were recovered from them. In their disclosure statements, Dharampal and

Gopi Ram named the present petitioner from whom they purchased the contraband.

Learned counsel for petitioner submits that the petitioner has been falsely implicated in the present case on the basis of disclosure statements of co-accused Dharampal and Gopi Ram which is a very weak type of evidence and except the disclosure statements of co-accused there is no other evidence against the petitioner. The petitioner was not apprehended on the spot. Nothing has been recovered from him. The petitioner is in custody since 23.06.2022. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be released on regular bail.

On the other hand learned State counsel opposes the present petition on the ground that the huge quantity of 52.5 kgs. of Ganja, which falls in the category of commercial quantity, has been recovered from the conscious possession of co-accused Dharampal and Gopi Ram without any license or permit. In their disclosure statements co-accused Dharampal and Gopi Ram named the petitioner as supplier of the alleged contraband recovered from them. Therefore, the present petition may be dismissed.

I have heard learned counsel for the parties and gone through the paper-book.

As per reply filed by the State, during investigation, disclosure statements of co-accused Dharam Pal and Gopi Ram were recorded. Co-accused Dharam Pal in his statement suffered that he is known to Raj Kumar and he has relationship with him and Raj Kumar

has friendship with co-accused Uddhav Khura who used to sell Ganja. Raj Kumar asked him to accompany him to bring Ganja from Uddhav Khura. On 04.06.2022 he, Gopi Ram, Roshani, Geena Devi, Baljeet, Ballu @ Balwan, Savitri, Raj Kumar and Bhateri gathered at Railway Station Hisar. Raj Kumar asked them that he will give Rs.25,000/- each to purchase Ganja and in lieu of that they have to pay Rs.10,000/- each extra to him. Thereafter, they reached in the house of petitioner-Uddhav Khura in Orissa and purchased 100 kgs. Ganja at the rate of 2,000/- per kg. They kept Ganja in 06 bags and reached Hisar. 03 plastic bags were kept by Raj Kumar and his wife Bhateri and remaining 03 bags were kept by him and Gopi Ram. On 23.06.2022, the Investigating Agency reached at Orissa and arrested petitioner-Uddhav Khura from his village. In his disclosure statement, petitioner-Uddhav Khura also stated that around 15/20 days ago, co-accused Raj Kumar along with some other persons came at his house for purchasing Ganja. He sold 100 kgs. Ganja for Rs.2,00,000/- at the rate of 2,000/- per kg. to them. He has spent the amount and a sum of Rs.2,000/- was recovered from him and the place where he sold the Ganja to Dharmpal etc. was got demarcated from the petitioner.

The Hon'ble Apex Court in case ***State of Punjab Vs. Baldev Singh : 1999 AIR SC 2378*** has observed regarding Drug Addiction, Drug abuse and its effect on the society. The Hon'ble Apex Court in para No.3 has observed as under:-

*“3. Drug abuse is a social malady. While drug addition eats into the vitals of the society, drug trafficking not only eats into the vitals of the economy of a country, but illicit money generated by drug trafficking is often used for illicit activities including encouragement of terrorism. There is*

*no doubt that drug trafficking, trading and its use, which is a global phenomena and has acquired the dimensions of an epidemic, affects the economic policies of the State, corrupts the system and is detrimental to the future of a country. It has the effect of producing a sick society and harmful culture. Anti-drug justice is a criminal dimension of social justice. The United Nations Conventions Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances which was held in Vienna, Australia in 1988 was perhaps one of the first efforts, at an international level, to tackle the menace of drug trafficking throughout the comity of nations. The Government of India has ratified this convention.”*

The aforesaid ratio of law has also been reiterated by the Hon'ble Supreme Court recently in ***Sri Thaha Ummer Vs. Union of India, Criminal Petition No.9450/2022 decided on 09.11.2022.***

Keeping in view the facts and circumstances of the case, evidence against the petitioner, the fact that the alleged contraband recovered falls under the category of 'commercial' quantity which attracts rigors of Section 37(1)(b) of the NDPS Act, I am of the considered view that the petitioner does not deserve the concession of regular bail.

In view of the above, the present petition is dismissed.

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| <b>30.11.2022</b>          | <b>(ASHOK KUMAR VERMA)</b> |
| <i>kothiyal</i>            | <b>JUDGE</b>               |
| Whether speaking/reasoned: | Yes/No                     |
| Whether Reportable:        | Yes/No                     |