

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

223

CRM-M-46364-2021

Date of Decision : January 21, 2022

SHAMSHER @ KALA

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Through Video Conferencing

Present : Mr. Harkaran Singh, Advocate
for the petitioner.

Mr. Apoorv Garg, DAG, Haryana.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.316 dated 26.7.2021 under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station City Bahadurgarh, District Jhajjar.

It has been submitted by the learned counsel for the petitioner that in the present case the alleged recovery was 1.410 kgs of ganja from the petitioner who was a pillion rider of the motor cycle. The learned counsel has submitted that in the present case, the petitioner has been falsely implicated only in view of the fact that earlier also a very small quantity of ganja has been planted upon the petitioner in three cases which was less than one kg and the petitioner is on bail in those cases.

Learned counsel submitted that it has been inadvertently recorded by the

learned Sessions Judge, Jhajjar while dismissing the bail application of the petitioner that the quantity was a commercial quantity. However, the commercial quantity of ganja under the NDPS Act is 20 kgs and the alleged recovery from the petitioner was only 1.410 kgs and, therefore, it was not a commercial quantity. He further submitted that in the other three cases also the alleged recovery was less than one kg of ganja which is even less than the small quantity. He has submitted that the petitioner is in custody since 26.7.2021 and the investigation of the case is already complete and the challan has been presented in the competent Court. He has, therefore, prayed that the petitioner may be considered for the grant of bail.

On the other hand, Mr. Garg, learned DAG, Haryana has submitted that it is correct that the alleged recovery of ganja was 1.410 kgs which does not fall in the category of commercial quantity. He has further submitted that it is also correct that the investigation of the case is already complete and the challan has been presented in the Court and in other three cases pending against the petitioner, the petitioner is on bail and the alleged recovery in those cases was also less than one kg.

I have heard the learned counsels for the parties.

The petitioner is in custody from 26.7.2021 and the challan has already been presented in the competent Court. The alleged recovery of ganja from the petitioner who was allegedly a pillion rider of the motor cycle is of 1.410 kgs. which does not fall in the category of commercial quantity. The petitioner is also stated to be on bail in the other cases wherein the alleged recovery from the petitioner was of small quantity of

ganja.

Therefore, considering the totality of the circumstances of the present case, I deem it fit and proper to grant bail to the petitioner.

Consequently, the petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

January 21, 2022
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(JASGURPREET SINGH PURI)
JUDGE

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