

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

251

CRM-M-44762 of 2022
Date of Decision:23.11.2022

Amit

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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

Mr. S. K. Dagar, DAG, Haryana

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.316 dated 26.07.2021, under Section 20 NDPS Act, 1985, registered at Police Station City Bahadurgarh, District Jhajjar.

It has been submitted by the learned counsel for the petitioner that it is a case where the allegation against the petitioner was when he was riding a motorcycle there was an alleged recovery of 1 kg and 410 grams of Ganja. He submitted that the petitioner in fact has been falsely implicated in the present case and the alleged recovery is a small quantity of Ganja which does not fall under the category of commercial quantity under the NDPS Act. He has submitted that the other co-accused namely Shamsher @ Kala who was allegedly the pillion rider

filed a bail petition before this Court in CRM-M-46364 of 2021 and he has been extended the benefit of regular bail by this Court on 21.01.2022. He has further submitted that although the petitioner is involved in two more cases out of which one pertains to NDPS Act and because of that reason he has been falsely implicated in the present case. He further submitted that be that as it may, since the alleged recovery is a small quantity and under the NDPS Act the commercial quantity has been prescribed as 20 kgs. Therefore, the bar contained under Section 37 of the NDPS Act will not apply in the present case. He further submitted that the investigation of the case has already been completed and now one prosecution witness has already been examined and the trial of the case may take long time and therefore the petitioner may be considered for the grant of regular bail.

On the other hand, Mr. S. K. Dagar, learned DAG, Haryana has stated that it is correct that the petitioner is in custody from 27.07.2021 which is approximately one year and four months and there was a recovery of 1 kg. and 410 grams of Ganja from the petitioner alongwith other co-accused namely Shamsher @ Kala who has already been extended the benefit of regular bail by this Court. He has however opposed the grant of regular bail to the petitioner on the ground that the petitioner is involved in two more cases including one csase under the NDPS Act.

I have heard the learned counsel for the parties.

It is a case where the alleged recovery of only 1 kg and 410 grams of Ganja from two persons and the other co-accused namely Shamsher @ Kala has been extended the benefit of regular bail by this Court. The alleged recovered quantity does not fall under the category of commercial quantity. The mere fact that the petitioner is involved in two more cases cannot disentitle the petitioner for

grant of regular bail especially considering the custody of the petitioner and also the fact that the investigation of the present case has already been completed and the trial is in progress which may take long time

Therefore, considering the aforesaid facts and circumstances, the petitioner deserves the concession of regular bail. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expresion of opinion on merits of the case and is only meant for the purpose of decision of present petition.

(JASGURPREET SINGH PURI)
JUDGE

November 23, 2022
dinesh

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No