

S. No.220

2023:PHHC:158221

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

CRM-M-18154 of 2023 (O&M)

Date of Decision:11.12.2023

Jabbar

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Shailender Kashyap, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. AG, Haryana.

DEEPAK GUPTA, J. (Oral)

Reply by way of an affidavit of Shri Mahesh Kumar, HPS, Assistant Commissioner of Police, NIT, Faridabad has been filed on behalf of the respondent- State.

By way of present petition filed under Section 439 Cr.P.C., petitioner prays for grant of regular bail in case FIR No.513 dated 29.11.2021 registered under Sections 20/29, (Act No.61 of 1985) of NDPS Act at Police Station Dabua, District Faridabad.

This is the second petition for this purpose. Earlier petition is stated to be dismissed as withdrawn vide order dated 28.04.2022 in CRM-M-16481 of 2022.

Allegations of the prosecution are that 24 kg. 70 grams of Ganja Patti was recovered from the possession of the petitioner on 29.11.2021.

It is contended by learned counsel that Ganja Patti does not fall within the meaning of contraband as per Section 2(iii)(b) of the NDPS Act.

Learned counsel has referred to **Saleem @ Mulla Vs. State of Haryana, 2021(3)**

R.C.R. (Criminal) 407; Mosim Vs. State of Haryana - CRM-M-51010 of 2023 (O&M) decided on 30.11.2023, Jangir Singh Vs. State of Punjab – CRM-M-266 of 2018 decided on 13.07.2018 and Salim Vs. State of Haryana, CRM-M-42436 of 2020 decided on 24.02.2021.

Further Contention of learned counsel for the petitioner is that petitioner is in custody for the last more than two years and that trial may take long time to conclude, and so the petitioner be allowed bail.

Learned State Counsel opposed the bail petition by pointing out that recovered quantity falls in the commercial category. Learned State Counsel further submits that as per the FSL report, ganja was found to be present in the sample drawn from the contraband recovered from the petitioner. Learned State Counsel also opposes the bail petition on the ground that petitioner is involved in numerous other cases.

Heard.

No doubt, the petitioner has criminal antecedents as per the custody certificate but it is revealed that he is involved in one more case under the NDPS Act. That FIR was lodged after lodging of the present FIR. Petitioner is on bail in that case bearing FIR No.704 of 2021 dated N/A under Section 20 (Act No.61 of 1985) of the NDPS Act. Recovery was of small quantity as stated by learned counsel for the petitioner.

Apart from above, custody certificate reveals that the petitioner is in custody since 02 years and 09 days. It is also informed by learned State Counsel that out of 17 witnesses cited by the prosecution, only 06 have been examined so far and thus, the trial may take long time to conclude. It is also debatable issue to whether Ganga Patti would fall under the NDPS Act or not.

Having regard to the afore-said facts and circumstances, but without commenting anything on the merits of the case, present petition is allowed. Petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/ Duty Magistrate concerned.

December 11, 2023
renu

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No