

226 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-42233-2023 (O&amp;M)

Date of Decision:31.10.2023

Uma Shankar

...Petitioner

vs.

State of Punjab

...Respondent

**Coram : Hon'ble Mr. Justice N.S.Shekhawat**

Present : Mr. Rajesh Duhan, Advocate, for the petitioner.

Mr. M.S.Bajwa, Deputy Advocate General, Punjab.

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**N.S.Shekhawat J. (Oral)****CRM-41479-2023**

1. The applicant-petitioner has filed the present application with a prayer to add the offence under Section 29 of the NDPS Act in the head note as well as in the prayer clause of the present petition.

2. Notice of the application.

3. Mr. M.S.Bajwa, Deputy Advocate General, Punjab, accepts notice on behalf of the respondent-State and has no serious objection to the prayer made by learned counsel for the applicant-petitioner.

4. The application is allowed. The offence under Section 29 of NDPS Act is ordered to be mentioned in the head note as well as in the prayer clause of the present petition.

**CRM-M-42233-2023**

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.16 dated

27.02.2023 registered under Sections 20 and 29 of NDPS Act, at Police Station, Julkan, Patiala, District Patiala.

2. As per the case of the prosecution, on 27.02.2023, a police party headed by ASI Surinder Singh was present for checking the vehicles and search of bad elements. In the meantime, one “Motor Cycle Rehri” came from Haryana and on suspicion, driver of the said vehicle was apprehended. He disclosed his name and address as Uma Shankar son of Tulsi Ram, resident of Near Gaushala, Sanauri Bus Stand Patiala, Police Station Patiala. After following the procedure under NDPS Act, the search was conducted and 20 kgs of *Ganja* was recovered from the present petitioner. During interrogation of accused, Uma Shanker, he disclosed that he used to take this *Ganja* from Pahowa, Haryana to Punjab, on the asking of Lachhmi and she used to hand over him Rs.4000/- to Rs.5,000/- per round. On the basis of the disclosure statement made by Uma Shanker, co-accused Lachhmi was also nominated as an accused in the present case.

3. Learned counsel for the petitioner contends that the petitioner was allegedly found in possession of 20 kgs of *Ganja*, which falls under “non-commercial quantity”. He further submits that there is no other case against the present petitioner and this case is clearly distinguishable from the case of co-accused, Lachhmi, who is facing six more criminal cases, including three cases under NDPS Act. The petitioner was arrested in the present case on 27.02.2023 and the conclusion of the trial may take a long time.

4. Status report by way of an affidavit of Deputy Superintendent of Police, Circle Rural Patiala, District Patiala has been filed on behalf of the

respondent-State in Court today and the same is taken on record. Learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that huge quantity of *Ganja* was recovered from the petitioner. However, he admits that no other criminal case was registered against the present petitioner.

5. I have heard learned counsel for the parties and perused the record.
6. The petitioner was arrested in the present case on 27.02.2023 and the recovery of contraband falls within the category of “non-commercial quantity”. The petitioner is the first offender. The trial is at nascent stage and the trial Court may take long time in concluding the trial proceedings.
7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

31.10.2023  
hemlata

(N.S.SHEKHAWAT)  
JUDGE

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