

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

**CRM-M-43159-2023
Date of decision:- 28.11.2023**

Rajender

... Petitioner

Versus

State of Haryana

.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.K.L. Saini, Advocate
for the petitioner.

Mr.Munish Sharma, DAG, Haryana.

SUVIR SEHGAL, J. (ORAL)

1. This is a third petition preferred by petitioner under Section 439 Cr.P.C. for grant of post-arrest bail in FIR No.273 dated 05.11.2020 lodged at Police Station Bass, Hansi for offence under Section 20 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short – NDPS Act).
2. Case of the prosecution is that FIR has been registered on the basis of secret information that two persons, who are running business of sale of intoxicants were travelling in a vehicle with prohibited substance. A barricade was set-up and a Pick-Up vehicle was intercepted. On inquiry, the driver disclosed his name as Rajender, present petitioner, and the lady sitting on the adjoining seat identified herself as Kavita. On search, 13 ploythene brown coloured bags were recovered and their contents were found to be

Ganja with a total weight of 24 kg.

3. Counsel for the petitioner has argued that the petitioner has been falsely implicated and mandatory provisions of NDPS Act have not been complied with at the time of alleged search and seizure. He contends that the contraband allegedly recovered weighs slightly more than the upper limit of commercial quantity and the petitioner, who is in custody since 05.11.2020 deserves to be enlarged on bail as the trial is not likely to conclude in near future.

4. Opposing the petition, learned State counsel submits that as the contraband recovered from the possession of the petitioner falls within the scope of commercial quantity, the prayer for bail cannot be entertained in view of the statutory bar. Still further, he submits that the petitioner has a criminal past and if released on bail, he is likely to indulge in the trade of contraband.

5. Having heard counsel for the parties and considering their respective submissions, this Court is of the view that a prayer made in the petition deserves to be declined.

6. The contraband recovered from the petitioner concededly falls within the ambit of commercial quantity and the rigor of Section 37 of NDPS Act will apply. Petitioner is involved in as many as 6 cases though he has been acquitted in some of them. This Court is therefore of the view that there is substance in the apprehension of the State counsel that the petitioner is likely to revive his links and re-start the trade of purchase and sale of the contraband. Merely because the petitioner has been in custody for more than three years and the trial is not likely to conclude, is not a sufficient ground to

exercise the discretionary power in his favour.

7. Finding no merit in the petition, it is hereby dismissed.
8. Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

28.11.2023
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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No