

CRM-M-47425-2022

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-47425-2022
Date of Decision: 04.07.2023

Raja Petitioner
Versus

State of Haryana Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Rahul Makkar, Advocate,
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.126 dated 06.06.2022, under Section 20/27-A/29 of the NDPS Act, registered at Police Station Sadar Bahadurgarh, District Jhajjar.
2. Learned counsel for the petitioner has submitted that the petitioner is in custody since 05.07.2022 which is 1 year and no witness has been examined till date. He further submitted that the name of the petitioner was nominated on the basis of disclosure statement of the co-accused, namely, Vijay, from whom, there was an alleged recovery of 1.62 kgs. of *Ganja* which does not fall in the category of commercial quantity. He also submitted that considering the aforesaid custody of the petitioner and the fact that the alleged recovery does not fall in the commercial quantity under the NDPS Act and the name of the petitioner was nominated on the basis of the disclosure statement of the aforesaid co-accused, which is not admissible

in evidence, he may be considered for the grant of regular bail.

3. On the other hand, Ms. Harpreet Kaur, learned Assistant Advocate General, Haryana, has submitted that it is correct that the petitioner is in custody from one year and the recovered quantity does not fall in the category of commercial quantity. She further submitted that it is also correct that the name of the petitioner was nominated on the basis of the disclosure statement of the co-accused, namely, Vijay, which is not admissible in evidence.

4. I have heard the learned counsels for the parties.

5. It is a case where the alleged recovery is not falling in the commercial quantity and the name of the petitioner was nominated on the basis of the disclosure statement of the co-accused, which is *per se* not admissible in evidence. The petitioner has already faced incarceration for one year. Therefore, considering the aforesaid facts and circumstances of the case, this Court deems it fit and proper to grant bail to the petitioner.

6. Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

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

04.07.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

1. Whether speaking/reasoned:	Yes/No
2. Whether reportable:	Yes/No