

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

CRM-M-49122-2022

Date of decision : 27.04.2023

Mohamad Saif

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Farukh Abdullah., Advocate for the petitioner.
Ms. Jasleen Kaur Sidhu, DAG, Punjab.

MANOJ BAJAJ, J.

This is the second petition filed under Section 439 Cr.P.C for grant of regular bail to petitioner pending trial in case FIR No.159 dated 05.10.2020 registered under Sections 20 and 25 Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 29 NDPS added later on) at Police Station Khanna, City-2, District Ludhiana, who is in custody since his arrest on 05.10.2020.

As per the allegations, on 5.10.2020, ASI Jagjeevan Ram alongwith other police officials was present at a nakabandi in front of Princetone Mall, Khanna Delhi-Ludhiana Highway. During checking, one White colour Swift Dzire Car bearing No.DL-8CAJ-1601 coming from Mandi Gobindgarh side was stopped. The driver of the car disclosed his identity as Mohammad Saif and co-occupant disclosed his name as Mohammad Aslam. On suspicion, the car was searched and from its boot, 48 kgs. of ganja was recovered. On these broad allegations, the present FIR was registered.

Learned counsel for the petitioner submits that as per the case of the prosecution, 48 k.g. ganja was recovered from accused persons, namely, Mohammad Aslam, and Mohammad Saif, who were travelling in a car driven

by the petitioner. He further refers to the FSL report dated 27.11.2020 to submit that the resin extract was found to the extent of 18.05% and considering the same, this Court vide order dated 30.07.2021 extended the concession of regular bail to co-accused-Mohammad Aslam. He prays that the petitioner be also released on bail.

On the other hand, learned State counsel, who is assisted by SI Sukhdev Singh while opposing the prayer has argued that the recovered contraband falls within the ambit of commercial quantity as per NDPS Act and the recovery was made from the vehicle driven by the petitioner. She further on instructions submits that in all there are 21 prosecution witnesses and none has been examined and the case is now coming up before the trial Court for recording prosecution witnesses on 12.05.2023. She prays for dismissal of the petition.

After hearing learned counsel for the parties and considering their submission, this Court finds no merit in the argument advanced by learned counsel for the petitioner that in view of the FSL report, the quantity recovered from the accused persons cannot be treated as commercial quantity as it is to be seen by the trial Court at the final stage after analyzing the evidence adduced by both the parties. Concededly, the charges against the petitioner have already been framed, but the said order was never challenged by the accused, therefore, it will not be appropriate for this Court to adjudicate the quantity of the contraband in the light of the FSL report.

Resultantly, considering the seriousness of the offence, but without meaning any expression of opinion on the merits of the case, no case is made out for releasing the petitioner on regular bail.

Petition is dismissed.

27.04.2023

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(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No