

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

CRM-M-19934-2024

Date of Decision:-26.04.2024

Harish.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Ms. Apoorva Arya, Advocate for
Mr. Jagmohan Ghumman, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.0083 dated 17.02.2024 under Sections 20(b)(ii)B of NDPS Act, 1985 registered at Police Station Khedki Daula District Gurugram.

2. The brief facts of the case are that the petitioner-Harish was a driver of the vehicle from which 18.11 Kg of Ganja was recovered from the possession of his co-accused Bhagmal.

3. The learned counsel for the petitioner contends that nothing has been recovered from the petitioner and the recovery if any is from his co-accused. The petitioner being the driver of the vehicle did not know the contents of the bag which his co-accused was carrying. The provision of the NDPS Act regarding search and seizure envisaged under Sections 50 & 52

have not been complied with. Taking the allegations to be correct, the recovery was of non commercial quantity of contraband, the commercial quantity being more than 20Kgs. As the petitioner was in custody since 17.02.2024 and none of the 18 Pws had been examined so far, the trial of the present case was not likely to be concluded anytime soon and therefore, the petitioner was entitled to the concession of bail.

4. The Counsel for the State on the other hand contends that the petitioner and his co-accused were travelling in a vehicle from which Ganja came to be recovered. The nature of the allegations levelled against the petitioner did not entitle him to the grant of bail, more so when he was involved in 03 other cases though not under the NDPS Act. He however concedes that the petitioner was in custody since 17.02.2024 and that none of the 18 Pws have been examined so far.

5. I have heard the learned counsel for the parties.

6. Admittedly, the recovery was from one Bhagmal who was sitting on the back seat of the vehicle being driven by the petitioner. Whether or not the petitioner was in conscious possession of the contraband would be adjudicated upon during the course of the Trial. As the petitioner is a first time offender, in custody since 17.02.2024 and none of the 18 Pws had been examined so far, therefore, the Trial of the present case is not likely to be concluded anytime soon. Further the recovery is of non commercial quantity of contraband. In this situation the further incarceration of the petitioner is not required.

9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Harish** son of Sh. Gurudutt is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

10. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.
12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

April 26, 2024
Vinay

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