



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

CRM-M-55236-2024

Date of Decision: 20.02.2025

Istak Ali @ Ishak

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Dhruv Sihag, Advocate for the petitioner.

Mr. Sumit Jain, Addl. AG, Haryana.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting him regular bail in case FIR No.138 dated 17.06.2023 under Sections 20(b)(ii)(B), 27-A, 29 of NDPS Act, registered at Police Station Sushant Lok, Gurugram.

2. As per facts of the case, on 17.06.2023, the Police received a secret information to the effect that Ilyas @ Lias Khan and his accomplices were coming to Sector-44, Gurugram in a vehicle bearing registration No.HR-98C-3851 marked Renault Kiger with intoxicant *Ganja* weighing about 10 Kgs to be supplied to Saritam wife of Akhtar Ali. In case of *naka*, he could be arrested. On finding the information reliable, necessary action was taken and the place was barricaded. A car as disclosed was seen coming and it was stopped. The inmates of the car were overpowered, however, one of them managed to escape. Three accused were arrested on the spot. On conducting search of the car, 10 kgs of *Ganja* was recovered. Co-accused Ilyas @ Lias Khan disclosed that the person, who had escaped from the place of occurrence was his brother Ishtaaq Ali (petitioner). Lateron, he was arrested on 01.09.2024. He approached the Court of learned Additional



Sessions Judge, Gurugram praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 25.09.2024. Hence, the petitioner has approached this Court praying for grant of bail by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently submitted that the petitioner has been falsely and frivolously implicated in the present case. He submits that neither the petitioner was arrested on spot nor any recovery was effected from him. He submits that the FIR in the present case has been lodged on the basis of secret information and there is violation of mandatory provisions of Sections 42 and 50 of the NDPS Act. It is submitted that co-accused, from whom the recovery was effected, have already been enlarged on bail by the trial Court. He submits that even otherwise, the alleged recovery effected from the co-accused is 10 kgs of *Ganja*, which is a non-commercial quantity and thus, provisions of Section 37 of the NDPS Act are not attracted. He submits that the petitioner is behind bars since the date of his arrest. He, thus, submits that in the overall facts and circumstances, the petitioner deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that after due compliance of provisions of Sections 42 and 50, recovery was effected in the present case. He submits that the petitioner managed to escape from the place of occurrence and his name was disclosed by the co-accused. He has also produced on record the custody certificate of the petitioner. It is submitted



that the petitioner is involved in one more case registered in UP. On instructions, he further apprises the Court that out of total 24 prosecution witnesses, 02 witnesses have been examined so far.

5. Heard. It is deciphered from the facts and circumstances of the case that the FIR in the present case is registered on the basis of the secret information. Though the petitioner was allegedly alongwith the co-accused, however, he allegedly escaped from the place of occurrence. This is an admitted fact that co-accused, who were arrested on the spot, have already been enlarged on bail by the trial Court. The petitioner was subsequently arrested on 01.09.2024. As per custody certificate of the petitioner, he has already suffered incarceration of 05 months 16 days as on 19.02.2025. Recovery effected from the co-accused is 10 Kgs of Ganja, which is non-commercial quantity, hence, provisions of 37 of NDPS Act, are not attracted. Though the petitioner is involved in one more case registered in UP, however, it is apprised that he is on bail in that case.

6. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the

satisfaction of the concerned trial Court/Duty Magistrate.

8. Nothing said herein shall be treated as an expression of opinion
on the merits of the case.

20.02.2025		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No