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

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Date of decision : 17.04.2026

BISHAN ALIAS VISHAL

... PETITIONER

Versus

STATE OF HARYANA

.. RESPONDENT

CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

Present:- Mr. Parminder Singh Sekhon, Senior Advocate with
Mr. L.S. Sekhon, Advocate for the petitioner.

Mr. Vijay Kumar, AAG, Haryana.

H.S. Grewal, J.(Oral)

1. This petition has been filed by the petitioner seeking regular bail under Section 483 BNSS, 2023(erstwhile Section 439 Cr.P.C.), in case FIR No.176 dated 09.03.2025, under Section 20 of the NDPS Act, registered at Police Station Sadar Karnal, District Karnal.
2. The case of the prosecution is that on 08.03.2025, the petitioner along with co-accused Sonu Saini, was apprehended on the basis of a secret information. Upon search of the house of co-accused Sonu Saini, one big plastic bag containing *ganja (phool patti)* weighing 30 kg. 900 grams was recovered. It is alleged that the petitioner was present at the said premises at the time of recovery, however, no contraband or other objectionable article was recovered from his conscious possession.
3. Learned Senior counsel for the petitioner, however, submits that the petitioner has been falsely implicated in the case and there is non-



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compliance of the mandatory provisions of the NDPS Act. It is submitted that the alleged secret information was neither reduced into writing nor forwarded to the immediate superior officer, as required under the law. Learned Senior counsel further submits that although the alleged recovery was shown to be effected from a public place but no independent witness was joined during investigation.

4. It is also submitted that nothing has been recovered from the petitioner. While the prosecution alleges the recovery of 30 kg 900 grams of ganja (phool patti), however, the FSL report fails to corroborate the same. As per the FSL report (Annexure P-2), the recovered material is not purely ganja but a mixture of bhang and ganja. In support of his submission, learned Senior counsel has relied upon the judgment of this Court in the cases of **Roshan Kumar and another versus State of Haryana, 2019(3) RCR (Criminal) 692 and Arun Kumar Azad and others versus State of Haryana and others, 2021(3) RCR (Criminal) 398.**

5. Learned Senior counsel also submits that the petitioner is in custody for the last more than 01 year, 01 month and 01 day and is not involved in any other case under the NDPS Act. He, therefore, prays for release of the petitioner on regular bail as the trial is likely to take a long time as only 02 out of 17 cited prosecution witnesses have been examined so far.

6. Learned State counsel vehemently opposes the prayer for grant of regular bail to the petitioner. He has filed the custody certificate in Court, which is taken on record. As per the custody certificate, the petitioner is in custody for the last more than 01 year, 01 month and 01 day. He, upon



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instructions, submits that only 02 out of 17 cited prosecution witnesses have been examined so far.

7. I have heard the learned counsel for the parties and perused the record.

8. The primary issue in the present case pertains to the nature and composition of the alleged recovered contraband. The prosecution has projected the recovery as *ganja*, however, a perusal of the FSL report (Annexure P-2) clearly shows that the recovered material consists of “Greenish brown vegetative material having flowering/fruited tops, leaves and seeds etc.”

9. Moreover, in terms of Section 2(iii)(b) of the NDPS Act, *ganja* specifically excludes seeds and leaves when not accompanied by the tops. Therefore, the inclusion of leaves and seeds in the recovered material makes it evident that the substance cannot be treated as pure *ganja* in its strict legal sense. Section 2(iii)(b) of the NDPS Act is reproduced hereunder:-

“(iii) ‘*cannabis (hemp)*’ means –

(a) *charas, that is, the separated resin, in whatever form, whether crude or purified, obtained from the cannabis plant and also includes concentrated preparation and resin known as hashish oil or liquid hashish;*

(b) *ganja, that is, the flowering or fruited tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be known or designated; and*

(c) *any mixture, with or without any neutral material, of any of the above forms of cannabis or any drink prepared therefrom;*

(iv) “*cannabis plant*” means any plant of the genus *cannabis*;



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10. Reliance may be placed upon the judgment of the Hon'ble Supreme Court in the case of **Rajesh Sahu versus State of Chhattisgarh**, arising out of SLP (Crl.) No. 10001/2025, decided on 01.09.2025, wherein it has been held as under:-

“Though the seized quantity of contraband/ganja is shown as a little above the ‘commercial quantity’ under the NDPS Act, we find that the said seized quantity also contained leaves, seeds and dry vegetative floral parts, which need to be excluded while computing the actual quantity of the contraband/ganja.”

11. In view of the settled legal position and the nature of the recovered material as reflected in the FSL report, it is evident that the entire alleged recovery cannot be treated as commercial quantity of *ganja* in terms of the provisions of the NDPS Act. Moreover, keeping in view the other submissions of learned counsel for the petitioner and the fact that the petitioner is in custody for the last more than 01 year, 01 month and 01 day, he is not involved in any other case under the NDPS Act, and that the trial is likely to take a long time to conclude as only 02 out of 17 cited prosecution witnesses have been examined so far., therefore, this Court deems it appropriate to grant the concession of regular bail to the petitioner during the pendency of the trial as the continuous detention of the petitioner would not serve the ends of justice.

12. Therefore, without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing requisite bail bonds, surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.



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13. However, it is made clear that in case the petitioner misuses the concession of bail, the State would be at liberty to seek cancellation of his bail.

April 17, 2026	(H.S.GREWAL)
Sonia	JUDGE
Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No