

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

CRM-M-29275 of 2015(O&M)
Date of decision : 04.09.2015

Sukhwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. APS Deol, Sr. Advocate
with Mr. Davinder Bir Singh, Advocate
for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab
assisted with HC Satnam Singh

JITENDRA CHAUHAN, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure (for short, 'the Cr.P.C.') seeking regular bail in case FIR No.51 dated 10.06.2015, registered under Sections 15 and 25 of the Narcotic Drugs and Psychotropic Substances Act, (for short, 'the NDPS') at Police Station Boha, District Mansa.

The learned counsel, inter alia, contends that the 52 Kgs. and 200 grams of alleged contraband also includes the weight of 2 plastic bags and the alleged recovery is marginally above the commercial quantity as the commercial quantity of poppy husk as per the Schedule is more than 50 Kgs. of poppy husk. Therefore, quantity recovered comes almost to non-commercial quantity. The petitioner is

in custody since 10.06.2015 and no other case is pending against the petitioner. The investigation is in progress and the challan has not yet been filed. The petitioner has been falsely implicated at the instance of altercation with some police officials with regard to their rash and negligent driving.

On the other hand, the learned State counsel opposes the bail and states that recovery has been effected from the conscious possession of the petitioner. The alleged recovery is a commercial one.

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

It is debatable whether the quantity is commercial or non-commercial. The challan has not yet been presented, therefore, it can be safely inferred that the trial is not likely to be concluded in the near future, without adverting to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail, on his furnishing bail bonds/surety bonds, to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

04.09.2015

ashok

(JITENDRA CHAUHAN)
JUDGE