

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

CRM No.M-5177 of 2015

Date of decision: 25.02.2015

Jaswant Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. J.B.S. Gill, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab
assisted by ASI Surinder Singh.

Jitendra Chauhan, J. (Oral)

By filing the present petition under Section 439 of the Code of Criminal Procedure, the petitioner has sought regular bail in case FIR No.88, dated 01.06.2014, registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, (for short, 'the NDPS Act'), at Police Station Model Town, Hoshiarpur.

The learned counsel for the petitioner contends that the alleged recovery of 100 kgs of poppy husk has been attributed to the three accused. The learned counsel, thus, submits that at the most, 33 kgs could be attributed to him. Even the weight of the bags has been included towards the weight of the contraband. The petitioner is in

custody since 01.06.2014. He is not involved in any other FIR. The other co-accused, namely, Shadi Lal, has already been enlarged on regular bail by this Court, vide order dated 19.11.2014 (Annexure P2).

On the other hand, the learned State counsel, on instructions, submits that 100 kgs of poppy husk was recovered from the possession of the accused, which is commercial quantity. However, she admits that the petitioner is not involved in any other FIR.

Heard.

In **Ram Singh** Vs. **State of Punjab**, 2008(4) R.C.R. (Criminal) 697, this Court has held as under:-

“The quantity recovered is 60 kg. Though it is commercial in nature but it is attributed to three persons. In that context it is possible to argue that it is slightly above commercial quantity. Without any comment on merit, bail to the satisfaction of Chief Judicial Magistrate, Mansa.”

In the instant case as well, the contraband was allegedly recovered from three persons. Moreover, the conscious possession of the contraband is debatable as the same was recovered from a truck being driven by the co-accused of the petitioner. The petitioner is in custody since 01.06.2014. He is not involved in any other FIR.

In the circumstances, without adverting to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail during the pendency of the trial, subject to his furnishing bail bonds and surety bonds, to the satisfaction of the trial Court.

25.02.2015

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(JITENDRA CHAUHAN)
JUDGE