

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

CRM-M-39242-2016 (O&M)

Date of decision: 18.11.2016

Gurmail Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Ms. Jyotika, Advocate,
for Mr. HPS Ishar, Advocate,
for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab,
assisted by HC Kulwinder 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 FIR No.32 dated 28.02.2016, registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Dyalpura, Distt. Bathinda.

It is contended that the petitioner is neither owner, nor driver of the vehicle in question. The same is owned by Jagjit Singh. Even otherwise, the contraband allegedly recovered falls under the category of 'non-commercial' quantity as the weight of the gunny bag has also been included towards the weight of the contraband. The petitioner is in custody since 28.02.2016. He is not involved in any other case.

On the other hand, learned State counsel states that the petitioner was arrested from the spot. The quantity recovered is 52.5 kgs. of poppy husk, which is commercial in nature. The challan stands presented

and the matter is fixed for framing of charges.

Heard.

The question whether the quantity is commercial or otherwise is debatable and shall be determined by the trial Court at appropriate stage. The petitioner is in custody since 28.02.2016. He is not involved in any other case. The challan stands already presented but the charges are yet to be framed.

In view of the above, 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, on his furnishing bail bonds and surety bonds, to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

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

18.11.2016
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No