

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

CRM No.M-7838 of 2016

Date of decision: 15.07.2016

Sukhdev Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Harkeerat Singh, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab
assisted by ASI Sukhpal 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.324, dated 03.12.2015, registered under Section 15 of NDPS Act, at Police Station Salem Tabri, District Ludhiana.

It is contended that the petitioner had been serving abroad and had come to India to meet his family and for treatment. He further states that no recovery was effected from the conscious possession of the petitioner. In fact, the alleged recovery of 200 kgs of poppy husk was effected from four accused, therefore, the same falls under non commercial quantity. The co-accused of the petitioner, namely, Parminder Singh is the owner and driver of the truck. The recovery was effected from the truck. He further states that the petitioner is a young

man of 26 years and is not involved in any other FIR. The petitioner is in custody since 03.12.2015.

On the other hand, the learned State counsel opposes the prayer of bail and states that the recovery was effected from the truck being driven by co-accused Parminder Singh and the petitioner was co-passenger. The challan stands presented, however, the charges are yet to be framed.

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

There is no contrary record to assail with regard to the assertion that petitioner is serving abroad and the fact that he had come to India for treatment. It is debatable as to whether the quantity is commercial or otherwise. Keeping in view the fact that the recovery was not effected from the conscious possession of the petitioner nor the petitioner was the driver or owner of the truck from which the recovery was effected; the petitioner is not involved in any other FIR and he is a young boy of 26 years; the trial is yet to commence and 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 during the pendency of the trial, on his furnishing bail bonds and surety bonds, to the satisfaction of the trial Court.

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

15.07.2016

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(JITENDRA CHAUHAN)
JUDGE