

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

208

CRM-M-10508-2017 (O&M)

Date of decision: 25.05.2017

KULWINDER SINGH @ LALLI

...Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present : Mr. Raj K. Gupta, Advocate for the petitioner (s).

Ms. Harsimrat Rai, DAG, Punjab
assisted by ASI Charanjit 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.90 dated 30.06.2015, registered under Section 15 of NDPS Act, at Police Station Khamano, Distt. Fatehgarh Sahib.

It is contended that the sample drawn in the instant case is against the procedure. As per the case of the prosecution, five bags weighing 30 kilograms each were allegedly recovered from the vehicle, not owned by the petitioner. The entire recovered substance was mixed and a representative sample was drawn. In this manner, serious prejudice has been caused to the petitioner as it cannot be said that the entire commodity recovered was poppy husk. As the substance recovered was not manufactured and sealed by a company, therefore, in the given case sample from each bag ought to have been drawn. The petitioner remained in

custody w.e.f. 30.06.2015 till 03.11.2015. He was admitted to interim bail from 04.11.2015 to 02.05.2016. The petitioner did not misuse the concession of bail. No independent witness has been joined by the police. The learned counsel cites '**U.O.I Vs. Bal Mukund and others**', 2009(2) R.C.R. (Criminal).

On the other hand, the learned State counsel vehemently opposes the present bail petition. She states that charges have been framed and out of 11 PWs, 1 PW has been examined.

Heard.

Considering the facts that the petitioner has suffered the incarceration of 1 year and 4 months; charges have been framed; out of 11 PWs, only 1 PW has been examined so far, trial is likely to take a long time, therefore, no purpose would be served in keeping the petitioner behind the bars.

Accordingly, 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.

25.05.2017

ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No