

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-45745 of 2016

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Date of decision:13.1.2017

Balaur Singh

...Petitioner

v.

State of Punjab

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. D.S. Pheruman, Advocate for the petitioner.

Mr. Deep Singh, Assistant Advocate General, Punjab for the
respondent-State.

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Inderjit Singh, J.

The petitioner has filed this second petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.60 dated 26.6.2015 registered for the offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the NDPS Act') at Police Station Jodhan, District Ludhiana.

Notice of motion to Advocate General, Punjab.

Mr. Deep Singh, learned Assistant Advocate General, Punjab has put in appearance on behalf of respondent-State and contested this petition.

I have heard learned counsel for the petitioner and learned Assistant Advocate General, Punjab appearing for the respondent-State and have gone through the record.

From the record, I find that as per the allegations in the FIR six

bags containing 30 kgs. each of poppy husk have been recovered and the samples were drawn by the Investigating Officer. The recovery in the present case falls in the commercial quantity.

Learned counsel for the petitioner argued that the Investigating Officer cannot take the sample and he mainly argued regarding the procedure under Section 52-A of the NDPS Act for taking representative sample by the Court. He placed reliance on the judgment of Hon'ble Supreme Court in Union of India v. Mohanlal and another, 2016(1) ACJ SC 386.

Learned counsel failed to show me from this judgment that the Supreme Court has anywhere held that if samples were taken by the Investigating Officer after the recovery, then the whole proceedings have been visited. Therefore, this judgment having distinguished facts will not apply in the present case. Section 37 of the NDPS Act bars the grant of bail in case of commercial quantity.

Keeping in view the heavy recovery in this case which falls in commercial quantity, I do not find it a fit case where the petitioner is entitled to the benefit of regular bail.

Therefore, in view of the above discussion, I do not find any merit in this petition and the same is dismissed.

January 13, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No