

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

CRM-M-5216-2022

Date of Decision: 17.05.2022

Rajbir Singh @ Chhotu

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Parmod Kumar, Advocate for
the petitioner.

Mr. Surender Singh, AAG, Haryana.

HARNARESH SINGH GILL, J.(Oral)

Through this petition, the petitioner seeks regular bail in case bearing FIR No.51 dated 29.01.2020, registered at Police Station Sadar Thanesar, District Kurukshetra, under Sections 15, 27-A and 29 NDPS Act.

Learned counsel for the petitioner contends that the petitioner, who is merely a truck driver, has falsely been implicated in the present case; that he has been in custody since 01.02.2020; that co-accused, namely, Jagmal Singh @ Kala has since been granted the concession of regular bail by this Court, vide order dated 03.03.2021 passed in CRM-M-42430-2020.

Learned counsel further contends that the petitioner was arrested at 2.00 a.m. on 29.01.2022, but the police officials had not sent the report to the superior officials in compliance of Section 42 NDPS Act. In support of his contentions, the learned counsel relies upon the judgment delivered by the Hon'ble Supreme Court in 'Boota Singh and others Vs. State of Haryana', 2021 (2) R.C.R. (Criminal) 892.

On the other hand, learned State counsel, while opposing the aforesaid submissions of the learned counsel for the petitioner, submits that recovery of 135-kg poppy husk had been effected from a truck which was being driven by the petitioner on monthly basis and co-accused Happy was a cleaner on the said truck.

I have heard the learned counsel for the parties.

Indisputably, the extent of recovery of poppy husk effected from a truck being driven by the petitioner, falls in 'commercial quantity'. Section 37 NDPS Act bars the grant of bail to the accused in case of 'commercial quantity'. The argument of the learned counsel for the petitioner to release him on bail due to custodial period, is not worth consideration, in view of the order dated 29.10.2021 of the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No. 5507/2020 – Jamshed Alam @ Jamsher Alams Vs. The State of Jharkhand, wherein the accused was granted bail after custody period of more than 3 years.

The case law cited by the learned counsel for the petitioner is not applicable to the facts and circumstances of the present case in the light of the recent order dated 29.10.2021 passed by the Hon'ble Supreme Court in Jamshed Alam @ Jamsher Alams's case (supra).

In view of the above, this Court does not find any merit in the present petition.

Dismissed.

17.05.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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