

**CRM-M-42622-2025**

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

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CRM-M-42622-2025**Date of decision : 12.08.2025**

Shamsher Singh

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present: Mr. Sanyam Malhotra, Advocate for the petitioner.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab.

SURYA PARTAP SINGH, J. (Oral)

1. This petition has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in a case arising out of FIR No.26 dated 13.02.2024 registered under Sections 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the 'NDPS Act', Police Station Samana, District Patiala.

2. In nutshell, the allegations as projected by the prosecution in the FIR are that on 13.02.2024, when a police party headed by SI Jaswinder Singh was on patrolling duty at about 03:30 pm, it spotted a vehicle bearing registration No.PB11-BK-5771 make Bharat Benz. It was observed by the police party that white coloured plastic bags kept in the abovementioned truck were being unloaded. According to the prosecution, when the police party on the basis of suspicion approached the abovementioned spot, the person who was unloading the bags, and another one who was standing

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beside the vehicle, tried to flee from the spot, but, both of them were apprehended by the police party. On enquiry, one person disclosed his name as Shamsheer Singh (petitioner) and the other one who was unloading the bags, as Balwant Singh. It is the case of the prosecution that when the contents of the bags being transported in the above-mentioned vehicle were examined, it was found that the bags were full of poppy husk/straw and on measurement, it was found that total quantity of poppy husk/straw being transported in the abovementioned vehicle was 60 kg.

3. On advance notice served upon the State, learned State Counsel has waived service and argued the matter without opting to file any reply to the petition.

4. Heard.

5. It has been argued by learned counsel for the petitioner that the petitioner has already served a sentence of 1 year, 5 months and 27 days and that in fact, the petitioner was employed as a labourer by the owner of the truck and the contraband did not belong to the petitioner. It has also been argued that the petitioner was not in conscious possession of the contraband and therefore, he is entitled for the benefit of bail. In support of his arguments, learned counsel for the petitioner has referred to the observations made by the High Court of Allahabad in Criminal Misc. Bail Application No.56509 of 2022 titled as '**Satyabhan Sisodiya Vs. State of U.P. & Anr.**', wherein 63 packets of ganja, weighing 662 kg, were recovered and the accused has been enlarged on bail on the ground that he has claimed himself to be a labourer. In addition to this, learned counsel for the petitioner has

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also referred to the principle of law laid down by the Hon'ble Supreme Court in Criminal Appeal No.451-452 of 2005 titled as '**Ram Singh Vs. Central Bureau of Narcotics**', wherein it has been observed that servant to whom the contraband does not belong, cannot be said to be in conscious possession of the contraband.

6. *Per contra*, learned State Counsel has argued that recovery of contraband from the possession of the petitioner falls in the category of commercial quantity and that the allegations against the petitioner are quite specific and categorical, that he was found in conscious possession of the contraband and therefore, the petitioner is not entitled for the benefit of bail.

7. Record has been perused.

8. A perusal of record shows that it is a claim of the petitioner that he was working as a labourer only, and that the contraband or the vehicle, wherein it was being transported did not belong to him. The record reveals that the petitioner has already suffered sufficient incarceration as he is in custody for a period of one year, 5 months and 27 days. It is also relevant to note that the recovery of contraband is just little over the prescribed commercial quantity and that there is nothing on record to show that the petitioner is a previous convict or involved in any other case under the NDPS Act. In addition to above, there is an allegation on behalf of the petitioner that there is violation of Section 50 of NDPS Act, despite the fact that search of the person of petitioner was conducted.

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9. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, the petitioner is entitled for the benefit of bail.

10. Hence, the present petition is hereby allowed and the petitioner is admitted to bail subject to his furnishing bail bonds to the satisfaction of the trial Court concerned. In case, the concerned Court is not available, the learned Sessions Judge would be at liberty to assign the abovesaid case, for the abovesaid purpose, to any other Court.

11. It is, however, made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

**(SURYA PARTAP SINGH)
JUDGE**

AUGUST 12, 2025

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No