



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

02

CRM-M-41672 of 2025
Reserved on :16.09.2025
Pronounced on: 19.09.2025

RAJ SINGH @ BALLU

.....PETITIONER

Versus

STATE OF HARYANA

..... RESPONDENT

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. Parveen Kumar Aggarwal, Addl. A.G, Haryana.

SURYA PARTAP SINGH, J.

1. For the commission of offence punishable under Sections 16 and 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985, hereinafter being referred to as “the NDPS Act” only, the FIR No.56 dated 16.02.2024, has been lodged in Police Station Sampla, District Rohtak. With regard to commission of above mentioned offence, the petitioner has been arrested. He is in custody, and therefore, craving for the concession of bail. This is first petition for bail, filed by the petitioner under Section 483 of BNSS.

2. In nut-shell the facts emanating from record are that the FIR



pertaining to instant case came into being on 16.02.2024 at the instance of Sub Inspector Jaibir Singh. It was informed by the above named Sub Inspector that on that day when a police party headed by him was on patrolling duty in official vehicle, he got a tip-off that Raj Singh, the petitioner had cultivated opium in his field, situated on Chhochhi Road. It is the case of the prosecution that on receipt of above mentioned information the provisions comprised under Section 442 of NDPS Act were complied with by the above mentioned police official, and thereafter, he went to the fields of Raj Singh and found that opium plants were cultivated there. As per above named police official, one person was present in the fields but when he spotted the police party, he fled from the spot.

3. It is the case of the prosecution that the poppy plant sown in the fields were uprooted and secured in 9 different sacks of 10 kg each. As per prosecution, with the help of revenue officials, inquiries about the ownership of above mentioned piece of land were made and thereafter, the petitioner was arrested.

4. Heard.

5. It has been contended by learned counsel for the petitioner that the petitioner is innocent and from his possession no contraband has been recovered. As per learned counsel for the petitioner the contents of FIR itself shows that the petitioner was not present on the spot and therefore he can't be termed to be in conscious possession of the allegedly recovered contraband. According to learned counsel for the petitioner, the weight of poppy plant, allegedly recovered from the fields, has shown to be 90 kg. and that for want



of any prescribed standard, the above said recovery cannot be treated to be the recovery of commercial quantity of Narcotic Substances.

6. In addition to above, it has also been argued by learned counsel for the petitioner that otherwise also the petitioner is 65 years old, and has already been in custody for a period of more than 01 year and 02 months. As contended by learned counsel for the petitioner, the trial is proceeding at a snail pace as, out of 27, only 01 witness has been examined so far. According to learned counsel for the petitioner in the given facts situation, the petitioner is entitled for the benefit of bail.

7. Learned State counsel has controverted the above mentioned arguments. According to learned State counsel in the present case, the recovery of contraband from the possession of petitioner has been found to be 90 kg. poppy plant and if the standard prescribed for poppy husk is applied, the above mentioned contraband comes within the category of commercial quantity. While referring to Section 37 of NDPS Act, the learned State counsel has contended that in the present case twins conditions have not been fulfilled and therefore, the petitioner is not entitled for bail.

8. The record has been perused carefully.

9. In the present case, one of the most significant fact, which needs to be taken into consideration is that the recovery of contraband from the possession of petitioner are the plants of poppy. Narcotic Drugs and Psychotropic Substances Act, 1985, no where prescribes any standard for the green poppy plants. With regard to above, it is relevant to mention here that Section 2(XVII) of Narcotic Drugs & Psychotropic Substances Act, 1985 lays



down the definition of opium poppy. According to above mentioned provision opium poppy means:-

- (a) *The plant of the species Papaver somniferum L; and*
- (b) *The plant of any other species of Papver from which opium or any phenanthrene alkaloid can be extracted and which the Central Government may, by notification in the Official Gazette, declare to be opium poppy for the purposes of this Act.*

10. Here it shall not be out of place to mention that similar question has been dealt with by this High Court in the case of “***Gurcharan Singh versus State of Haryana (CRM-M-15417-2015 decided on 05.10.2016)***” and “***Amrik Singh versus State of Haryana (CRM-M-13254-2020 decided on 09.07.2020)***”, wherein this argument of counsel for the petitioner has been accepted that there is no measure to determine small quantity or commercial quantity for opium poppy, because it is in fact a growing plant and would be so even at the stage of germination and till the stage of harvesting. Consequently, an offence for cultivating opium poppy would only be covered by Section 18-C of the Act. In the Table annexed with the Act it is clarified that with respect to cultivation of opium poppy the expression ‘small quantity’ and ‘commercial quantity’ is not relevant and the offence is to be covered under Section 18-C of the Act and, therefore, recovery of any quantity of opium poppy would have to be covered under non commercial quantity.

11. The above mentioned view of this Hon’ble Court has been followed subsequently in the case of ***Harwinder Singh @ Binder versus State of Punjab (CRM-M-33168-2024 decided on 02.08.2024)*** and ***Avtar Singh versus State of Punjab (CRM-M-18795-2022 decided on 28.07.2022)***.



12. A perusal of record shows that in the present case, there are certain relevant factors, which needs to be taken into consideration for arriving at any decision with regard to instant petition. Those factors are:-

- (a) that the petitioner is 65 years old agriculturist;
- (b) that the petitioner is already in custody for a period of more than 01 year and 02 months;
- (c) that the petitioner has no history of indulging in, or dealing with Narcotic Drugs or Psychotropic Substances;
- (d) that there is a reasonable question mark as to whether the quantity recovered from the possession of petitioner can be termed to be a commercial quantity;
- (e) that trial pertaining to instant case is not likely to be concluded in near future as, out of 27, only 01 witness has been examined so far;
- (f) that nothing is left to be recovered from the possession of the petitioner;
- (g) that detention of petitioner in judicial lock up is not likely to serve any purpose.
- (h) that there is nothing on record to show that if released on bail, the petitioner may influence the witnesses;

13. If cumulative effect of all the above mentioned factors is taken into consideration it leads to a conclusion that the petitioner is entitled to the benefit of bail.

14. Accordingly, without commenting anything on the merits of the case, the present petition is hereby allowed and the petitioner is admitted to bail subject to his furnishing bail bonds to the satisfaction of learned trial Court. It is further clarified that on the day when petitioner applies for furnishing the bail bonds, the learned trial Court is not available, the learned



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Sessions Judge shall be at liberty to assign the case, for the abovesaid purpose,
to any other Court.

(SURYA PARTAP SINGH)
JUDGE

19.09.2025

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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No