

**(2005) 03 P&H CK 0201**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Criminal Miscellaneous No. 9634-M of 2005

Mander Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

**Date of Decision:** March 22, 2005

**Acts Referred:**

- Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) - Section 18, 61

**Citation:** (2005) 13 CriminalCC 49

**Hon'ble Judges:** Virender Singh, J

**Bench:** Single Bench

**Advocate:** R.K. Girdhar, for the Appellant; S.C. Bhardwaj, D.A.G., Punjab, for the Respondent

**Judgement**

Virender Singh, J.

Vide this order, I shall be disposing of Crl.Misc.No.9634-M of 2005 (Mander Singh v. State of Punjab) and Crl.Misc.No. 10565-M of 2005 (Darshan Singh v. State of Punjab) as both the petitioners are arising out of the same case bearing FIR No. 123 dated 17.7.2004 under Sections 18, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter for short "the Act"), registered at Police Station Lambi, District Muktsar.

2. As per the allegations, both the petitioners were allegedly apprehended by the police when they were in possession of 2.5 kgs of opium.

3. Learned counsel for the petitioners contend that the recovery of effected from the petitioners would fall under the head of "non-commercial quantity" as it is not greater than quantity prescribed by the Notification. They have shown me the Schedule and Section 2 of the Act. Learned counsel further rely upon the Full Bench Judgment of the Himachal Pradesh High Court rendered in the case of Ratto v. State of Himachal Pradesh, 2004(1) RCR(Criminal) page 501.

4. Dwelling upon their arguments, the learned counsel contend that in view of the fact that the contraband allegedly recovered from the petitioners does not fall under the head of "commercial quantity", provisions of Section 37 of the Act shall not be attracted.

5. On the basis of the aforesaid submissions, learned counsel pray for the concession of bail.

6. Prayer for bail is opposed by the learned State counsel.

7. Without commenting on the merits of the case, lest it may prejudice the case of either side, the petitioners are directed to be released on bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Muktsar.

Both the petitions are disposed of accordingly.