



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR
ON THE 26th OF AUGUST, 2025
MISC. CRIMINAL CASE No. 36658 of 2025
VIRENDRA SINGH
Versus
THE STATE OF MADHYA PRADESH**

Appearance:

Shri Vikas Jain - Advocate for the applicant.

Shri K. K. Tiwari- G.A. for the State.

ORDER

They are heard. Perused the case diary/challan papers.

2] This is the applicant's first bail application filed under Section 483 of B.N.S.S., 2023/439 of Criminal Procedure Code, 1973, as he / she is implicated in connection with Crime No.04/2025 registered at Police Station Malhargarh, District- Mandsaur (MP) for offence punishable under Sections 8/15 and 29 of the NDPS Act. The applicant is in custody since 12.01.2025.

3] Allegation against the applicant is that he was also involved in the aforesaid case, wherein, 150.5 kg poppy-straw has been seized from the possession of the applicant Virendra Singh and co-accused Dashrath, from a Maruti WagonR car, which was kept in seven black sacks.

4] Counsel for the applicant has submitted that the Judicial Magistrate First Class has not adopted the proper procedure to draw samples from the bag, which also runs contrary to the decision rendered by the Supreme Court in the case of *Union of India Vs. Mohan Lal and another*, reported as (2016) 3 SCC 379. Counsel has also drawn the attention of this Court to the procedure adopted by the Judicial Magistrate First Class,



Narayangarh, District Mandsaur, wherein, seven samples of 150 grams each have been drawn from the sacks 'A' to 'G', and thereafter, they were mixed together and two samples of 525 grams each were drawn from the said mixture, and has been sent for testing. Hence, it is submitted that the bail application may be allowed.

5] Counsel for the respondent / State, on the other hand, has opposed the prayer, and it is submitted that no case for grant of bail is made out, looking to the huge quantity of contraband seized from the applicant and co-accused person, and the question regarding erroneous samples drawn by the Magistrate is required to be decided during the course of trial.

6] Heard. Having considered the rival submissions, and on perusal of the case diary, it is found that 150.5 kg poppy-straw has been seized from the possession of the applicant and co-accused Dashrath, which was kept in seven sacks, which have been given numbers as Article 'A' to 'G', and the Judicial Magistrate First Class, Narayangarh, District Mandsaur has drawn the samples as aforesaid, *i.e.*, by drawing samples of 150 grams each from each sacks, and thereafter mixing it together, two samples have been drawn. In the considered opinion of this Court, such sampling is totally illegal and cannot be sustained in the eyes of law, as it would always give a way out to the accused, if allowed to prevail.

7] In such circumstances, while this Court does not find it to be a fit case for grant of bail, it is also directed to the Judicial Magistrate First Class, Narayangarh, District Mandsaur to redraw the samples from each of the sacks, if they are not already disposed of, in accordance with Section 52A and the guidelines issued by Central Government in this behalf.

8] The Judicial Magistrate First Class, Narayangarh, District Mandsaur is also directed to ensure that such procedure, as prescribed above is followed in each and every case, and in any other case, in which he has



already drawn the samples in the manner in which it has been done in the present case, he is also directed to ensure that the samples are redrawn in accordance with law, with prior intimation to the Trial Court.

9] M.Cr.C. is *dismissed*.

(SUBODH ABHYANKAR)
JUDGE