



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

CRM-M-906-2025 (O&M)
Date of decision: 21.07.2025

Anil Kumar

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. L.K. Narang, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.17 dated 16.01.2020 under Sections 21/22/25 of the NDPS Act and Section 29 of the NDPS Act (added later on) registered at Police Station City Barnala, District Barnala.

Brief facts of the case are that ASI Dharampal, on receipt of secret information, apprehended Deepinder Singh and Navtej Singh along with Alto Car bearing registration No. PB-193L-9360 and from their possession, 45 intoxicant vials of WINCIREX 100 ml each and 40 strips of intoxicant tablets of CARISOMA each strip containing 10 tablets (in total 400 intoxicant tablets) were recovered and thus, the present case.

Learned counsel for the petitioner *inter alia* contends that nothing has been recovered from the conscious and exclusive possession of the petitioner and he has been nominated as an accused on the basis of disclosure statement made by co-accused during his custodial interrogation which has no



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evidentiary value in the eyes of law as the statements recorded by the police under Section 67 of NDPS Act would be hit by Sections 25 and 26 of Indian Evidence Act. Apart from the disclosure statement, there is no other evidence to connect the petitioner with the alleged recovery. Further, the petitioner is having clean antecedents and is behind the bars since 15.12.2024 and till date, out of 05 prosecution witnesses, none has been examined.

The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that petitioner is the supplier of the contraband which was recovered from the co-accused, as such, his complicity is duly established and he is not entitled to any relief. Further, the contraband recovered from the co-accused falls within the category of commercial quantity and as such, it will create an embargo of Section 37 of the NDPS Act.

A two Judge Bench of Hon'ble Supreme Court in '***Satender Kumar Antil v. CBI***' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 15.12.2024. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not

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made much progress as out of 05 prosecution witnesses, none has been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Anil Kumar, is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

During the course of arguments, it has been pointed out by counsel for the parties that the trial of the petitioner is being conducted separately from the co-accused which is not permissible.

In view of the above, the learned Sessions Judge, Barnala, is directed to look into the same and take appropriate steps in accordance with law.

(HARPREET SINGH BRAR)
JUDGE

21.07.2025*Neha*

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