

**CRM-M-2081-2025 (O&M)****218****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRM-M-2081-2025 (O&M)****Date of Decision: 30.04.2025****GURWINDER SINGH****...PETITIONER****Versus****STATE OF PUNJAB****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Ruhani Chadha, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. This is the first petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case bearing FIR No. 222 dated 30.10.2023 registered under Sections 15 and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') and Sections 25 and 27 of Arms Act added later on at Police Station Sidhwan Bet District Ludhiana.

2. FIR(supra) was registered on the statement of Station House Officer Incharge P.S. Sidhwan Bet who stated that on 30.10.2023 he along with ASI Nasib Chand 477/LDH-R and other police officials were patrolling on government vehicle make Scorpio colour black bearing no. PB 65 AW-3514, in search of suspicious peoples and they were present at Kishan Pura Chowk, Sidhwan Bet, where he received secret information that Gurwinder Singh (petitioner herein) is indulged in the business of selling Poppy husk and even today he is coming to supply poppy husk and he is having with him Tata Canter bearing no. PB 03 AT 1458 and besides him, there is one driver and one more person travelling in the said canter and they are coming on the said canter from

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Ludhiana side by supplying Poppy husk from two other villages and are coming towards Kishanpura, Giddarwindi side villages and will supply the same in that area. If without any delay Nakabandi is being done at Drain Bridge Village Abbupura, then Gurwinder Singh along with other persons, Canter along with poppy husk in huge quantity can be apprehended. Finding the information to be reliable, *naka* was laid at Drain bridge Village Habbopura and after some time from the link road one Canter make Tata, whose back was covered by *Tarpal* turned the kacha path and the driver of the canter after seeing the police party, implied break and the person who was driving the said Canter and two unknown persons after opening the doors of their respective sides of Canter, ran away from the spot. Besides the Canter driver, ASI Nasib Chand and the person who fled away from the conductor side, were followed by the police party, but they succeeded in fleeing away from the spot. Thereafter, ASI Nasib Chand came back to the Inspector and told that driver of the canter who ran away was the present petitioner. On the basis of suspicion, search of the canter was conducted and huge quantity of plastic bags containing poppy husk was recovered. On counting 75 heavy plastic bags were recovered and on weighment each bag was weighing 20 Kg of poppy husk. All the plastic bags were sealed and the impugned FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that perusal of the case set up by the prosecution clearly indicates that nothing has been recovered from the conscious possession of the petitioner. Further, the identity of the petitioner as the driver of the vehicle in question, from which poppy husk was allegedly recovered, is based upon the knowledge of ASI Nasib Chand, which is highly improbable. The petitioner is resident of Moga and he is not

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involved in any other case prior to registration of this FIR and ASI Nasib Chand is posted in Sidhwan Bet District Ludhiana and there is nothing on record to suggest that how ASI Nasib Chand is acquainted with the identity of the petitioner. The petitioner is not apprehended at the spot and he is not the owner of the vehicle in question and petitioner has himself surrendered before the learned trial Court after his application seeking anticipatory bail was dismissed. Learned counsel further relies upon the orders passed by Co-ordinate Benches of this Court, in which on the similar allegations, the accused who had succeeded in fleeing away from the spot and the contraband was recovered from the vehicle, have been granted the concession of anticipatory bail. Learned counsel relies upon interim orders dated 19.12.2024 passed in CRM-M-64347-2024 titled as ***Ajay Kumar Vs. State of Punjab***, dated 24.10.2024 passed in CRM-M-53154-2024 titled as ***Balwinder Singh @ Kulwinder Singh Vs. State of Punjab***, dated 29.03.2022 passed in CRM-M-9097-2022 titled as ***Gurdit Singh @ Geetu Vs. State of Punjab***. Further learned counsel has relied upon the final orders granting regular bail dated 27.05.2021 passed in CRM-M-18873-2021 titled as ***Mangal Singh Nambardar Vs. State of Punjab***, dated 27.07.2022 passed in CRM-M-9097-2022 titled as ***Gurdit Singh @ Geetu Vs. State of Punjab*** and dated 07.03.2025 passed in CRM-M-56606-2024 titled as ***Jugraj Singh @ Joga Vs. State of Punjab***.

4. Learned State counsel produces the custody certificate of the petitioner, which is taken on record and *per contra*, opposes the prayer made by the petitioner on the ground that there is sufficient material available on record to establish the complicity of the petitioner and huge quantity i.e. 15 quintal of poppy husk was recovered along with pistol and 03 live cartridges. However, he could not controvert the fact that petitioner is not involved in any other case and has been behind the bars since 28.05.2024.



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5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 10 months and 28 days as on 29.04.2025 and out of total 14 PWs, not even a single prosecution witness has been examined till date. Thus, conclusion of trial will take considerable long time.

6. 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."

7. Further the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. 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.

8. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner-Gurwinder Singh is ordered to be released on regular bail during pendency of



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the trial, on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

9. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

30.04.2025

Ajay Goswami

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No