



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

CRM-M-3973-2025

Date of decision: 29.01.2025

SACHIN

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gaurav Mohunta, Advocate and
Mr. Pratyush Sood, Advocate for the petitioner.
Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This is the first petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 seeking grant of regular bail to the petitioner in case bearing FIR No.107 dated 22.05.2024 under Sections 20/29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS Act") registered at Police Station Dujana, District Jhajjar (Annexure P-1).

2. In brief, the allegations of prosecution case are that on 22.05.2024, police party headed by ASI Sompal was present at Madana turn, Rohtak-Jhajjar Road, where secret information was received that one Rakesh son of Satbir, who deals with narcotic contraband, is proceeding towards Jhajjar from Rohtak side in white colour Wagon-R car bearing No.HR-15C-7714, having *Ganja* in it. If raid is conducted, he can be apprehended with narcotic contraband. Upon this information, notice under Section 42 NDPS Act was sent. Police party conducted raid at that place and after some time, a white colour Wagon-R car bearing No.HR-15C-7714 was seen coming from Rohtak side. The said car was signaled to stop. The occupants of the vehicle were apprehended and on

asking, the person seated on driver seat disclosed his name as Sachin son of



Satish (petitioner herein) and the person, who seated on conductor side seat disclosed his name as Rakesh son of Satbir. The apprehended persons were served notices under Section 50 of the NDPS Act. Sh. Jogender Dhankhar, Naib Tehsildar, Beri was called on spot for making compliance of provisions of search. On personal search of person Rakesh, a mobile phone make Redmi, a purse containing three rail tickets, a TCI receipt and Adhar Card were got recovered from the right side pocket of his lower. On personal search of petitioner-Sachin, a mobile phone make Apple was recovered from the right pocket of his pant. On search of the car, a white colour polythene containing cash amount of Rs.1,50,000/- was recovered from the dash board and a plastic sack of white colour, was recovered from the rear seat of the car. The plastic sack was found containing *Ganja*, which on weighing was found 21 kg. 900 gms. Hence, the FIR (*supra*) was registered.

3. Learned counsel for the petitioner *inter alia* contends that the FIR (*supra*) was registered on the basis of secret information, in which, name of co-accused Rakesh was mentioned. Learned counsel further contends that the contraband is admittedly recovered from the rear seat of the car, which was kept by co-accused and it is marginally higher than the commercial quantity. In case, the weight of sack is reduced from the quantity of the contraband, it would come out to be less than the commercial quantity. The petitioner is having clean antecedents as he is not involved in any other case under the NDPS Act. Even in the FSL report, the percentage of Tetrahydrocannabinol (THC) has not been mentioned to conclusively establish that the recovered contraband is *ganja* as it could be *bhang* also, which is not covered under the ambit of NDPS Act. The petitioner is behind the bars since 22.05.2024.



4. Learned State counsel produces the custody certificate, which is taken on record and *per contra*, opposes the prayer made by the petitioner on the ground that the petitioner was driving the vehicle from which, the alleged contraband was recovered. However, he could not controvert the fact that in the secret information, only name of co-accused Rakesh was mentioned.

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 since 23.05.2024. The final report under Section 173 Cr.P.C. was presented before the concerned Court and out of 21 witnesses cited by the prosecution, none has been examined so far. The petitioner has already undergone 08 months and 05 days of custody and the delay in conclusion of trial cannot be attributed him.

6. 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.

7. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner-Sachin 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.

8. 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.

January 29, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

- (i) Whether speaking/reasoned
(ii) Whether reportable

Yes/No
Yes/No