



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

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CRM-M-5229-2025 (O&M)

Date of decision: 22.04.2025

Gurpreet Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Prince Sharma, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.19 dated 31.01.2023 registered under Section 22 of the NDPS Act (Section 29 of the NDPS Act, added later on) at Police Station Sadar Patti, District Tarn Taran.

2. As per the allegations in the FIR, on 31.01.2023, at about 04:15 PM, while on patrolling duty near Jhuggian Kalu Road village Toot, ASI Kirpal Singh and his team intercepted a suspicious golden Hyundai Verna bearing registration No.DL1CT-9429 driven by Naresh Singh alias Gora. Upon seeing the police, the accused attempted to flee and discarded a polythene bag from his pocket. When questioned, he initially claimed it contained medicine, but upon inspection, the bag was found to hold 207 unlabelled white intoxicant tablets. The accused



failed to produce a prescription or valid permit. The contraband, along with the vehicle, was seized, and the matter was reported for registration of FIR under Section 22 of the NDPS Act.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated and admittedly, the intoxicating tablets were allegedly recovered from the conscious possession of co-accused Naresh Singh and the petitioner has been nominated as an accused only on the basis of disclosure statement made by co-accused while in police custody, which has no evidentiary value in the eyes of law as the same is hit by Section 25 of the Evidence Act. Further apart from the disclosure statement, there is no legally admissible evidence against the petitioner to connect him with the alleged recovery of 207 tablets of Etizolam.

4. Learned counsel for the petitioner further submits that there are total 15 prosecution witnesses cited in the list of witnesses, out of which, none has been examined till date and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that the petitioner is a habitual offender and he is involved in 02 more cases registered under the NDPS Act and he is the supplier of the contraband, in question, as such, he is not entitled to any relief, however, he could



not controvert the fact that out of 15 PWs, none has been examined so far.

6. 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. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress. Out of 15 prosecution witnesses, no PW has been examined so far.

7. A two Judge Bench of Hon'ble Supreme Court in ***"Satender Kumar Antil vs. 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."

8. 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.

9. Further keeping in view the law laid down by the Hon’ble Supreme Court of India in “*Prabhakar Tewari vs. State of U.P. and another*” 2020 (1) R.C.R. (Criminal 831) and “*Maulana Mohd. Amir Rashadi vs. State of U.P. and another*”, 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

10. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Gurpreet Singh is ordered to be released on regular bail during pendency of the trial, on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

11. 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

22.04.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No