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

CRM-20455-2025 in/and
CRM-M-6877-2025
Date of decision: 19.05.2025

Mangal

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rakesh Kumar Lathwal, Advocate
for the applicant/petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)**CRM-20455-2025**

The present application has been filed under Section 482 of Cr.P.C.
for placing on record documents as Annexures P-2 to P-11.

In view of the averments made in the application, the same is
allowed and documents as Annexures P-2 to P-11 are taken on record.

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The present petition has been filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR
No.494 dated 22.11.2024 under Section 21 of NDPS Act registered at Police
Station Gohana City, District Sonipat (Haryana).

Succinctly, the facts of the case are that on 22.11.2024, ASI
Rohtash along with EHC Vikas was present in Government vehicle being
driven by EHC Ravinder near Mandi Road, Gohana, in connection with crime
detection duty and he received secret information that the accused/petitioner is



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having *heroin* in front of his chop for sale. Thereafter, ASI Rohtash along with other police officials reached at the shop of the accused/petitioner and found a young boy standing as informed by the informer and on seeing the police party, he tried to run but the police party caught him. The accused/petitioner was apprehended with 09.07 grams of *heroin* and thus, the instant case.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been acquitted in other cases as discernible from Annexures P-2 to P-11. Further, the petitioner has been falsely implicated in the present case and the recovery was planted and further, the alleged recovery does not fall under the ambit of commercial quantity, as such, there is no embargo under Section 37 of the NDPS Act, for grant of regular bail to the petitioner. He further submits that the mandatory safeguards provided under the NDPS Act have not been complied with completely which suffocates the case set up by the prosecution. The petitioner is behind the bars since 22.11.2024 and till date, out of 13, not even a single prosecution witness has been examined.

The learned State counsel has filed status report along with custody certificate in the Court today which are taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that the petitioner is the main accused and 09 grams of *heroin* has been recovered from his conscious possession. He further submits that keeping in view the criminal behaviour of the petitioner, he is not entitled to any relief.

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:



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“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 22.11.2024. 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 made much progress as out of 13 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.

Keeping in view the law laid down by the Hon'ble Supreme Court



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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.

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-Mangal, 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.

(HARPREET SINGH BRAR)
JUDGE

19.05.2025

Neha

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