



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

CRM-M-7400-2025

Date of decision: 04.04.2025

DEEPAK SINGH @ NONU

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. H.S. Rakhra, Advocate for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This is the first petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS) for grant of regular bail to the petitioner in case bearing FIR No.123 dated 26.08.2024 under Sections 21(C), 61/85 of NDPS Act, 1985 (Section 29 of NDPS Act added later on) registered at Police Station Haibowal, District Police Commissionerate Ludhiana (Annexure P-1).

2. In brief, facts of the case are that on 26.08.2024, recovery of 500 grams of heroin has been alleged to be effected from accused Mukesh Yadav. During interrogation, he disclosed that Deepak Singh @ Nanu (petitioner herein) used to deliver heroin to him in the area of Ladhowal and Haibowal, so petitioner-Deepak Singh @ Nanu was nominated in this case. The applicant/accused Deepak Singh @ Nanu was arrested on 28.8.2024 and he in pursuance of his disclosure statement got recovered 249 grams of heroin. Hence, the FIR (*supra*) was registered against the petitioner.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner is not named in the FIR (*supra*). He further contends that the petitioner has been nominated in the present case, on the basis of disclosure



statement made by co-accused, namely, Mukesh Yadav, during his custodial interrogation, which has no evidentiary value in the eyes of law, as the same is hit by Section 25 of the Evidence Act. He further contends that the petitioner has been arrested after a delay of 02 days and recovery of the contraband was planted upon him. He submits that the alleged contraband recovered from the petitioner, falls under the ambit of non-commercial quantity, as such, the embargo of Section 37 of NDPS Act could not be attracted. Further, the petitioner is not involved in any other case. Lastly, learned counsel submits that the investigation of the case is complete and the petitioner is behind the bars since 28.08.2024 and even the charges have not been framed till date.

4. Learned State counsel produces the custody certificate of the petitioner, which is take on record and *per contra*, opposes the prayer of the petitioner on the ground that there is sufficient material available on record to indicate the complicity of the petitioner and he has been found in possession of 249 grams of heroin. However, he could not controvert the fact that the petitioner is not involved in any other case.

5. 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.”

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bar since 31.08.2024. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Till date, charges have also not been framed. 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.

7. In view of 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-Deepak Singh @ Nonu is ordered to be released on regular bail during the pendency of the trial on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

8. 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.

April 04, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No