



231

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

CRM-M-9295-2025

Date of decision: 29.07.2025

Shiva alias Ashu

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Rakesh Kumar Lathwal, Advocate
for the petitioner.

Mr. Satbir Goripuria, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.436 dated 23.06.2023 under Sections 22(C), 29 (added later on) of the NDPS Act registered at Police Station Urban Estate Hisar, District Hisar (Haryana).

As per the case of the prosecution, the petitioner has been found in possession of 168 bottles of Codeine Phosphate and Triprolidine Hydrochloride Syrup on 23.06.2023. The total weight of contraband lying in 168 bottles comes to 16.8 Kgs, which is more than the commercial quantity and thus, the instant case.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. Admittedly, the petitioner has been nominated as an accused in the FIR (*supra*) on the basis of disclosure statement made by co-accused during his custodial interrogation which has no evidentiary value in the eyes of law as the same is hit by Sections 25 and 26 of the Indian Evidence Act. Further, co-accused, namely, Sagar,



CRM-M-9295-2025

-2-

from whose possession the alleged contraband was recovered, has been granted the concession of regular bail by this Court vide order dated 24.07.2025 passed in CRM-M-28732-2025 titled as 'Sagar Vs. State of Haryana'. Investigation of the case is complete. The petitioner has suffered incarceration of 01 year, 07 months and 27 days and till date, out of total 22 prosecution witnesses, not even a single witness has been examined till date as the Coordinate Bench of this Court in CRM-M-57819-2024 has stayed the further proceedings before the trial Court vide order dated 15.05.2025 by relying upon the judgment of the Hon'ble Supreme Court passed in 'T.T. Antony Vs. State of Kerala' 2001(3) RCR (Criminal) 436.

The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that complicity of the petitioner is duly established and he is involved in other cases also and thus, 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:

“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 02.12.2023. 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 22 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 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-Shiva @ Ashu, is ordered to be released on regular bail

**CRM-M-9295-2025****-4-**

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

29.07.2025*Neha*

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