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

CRM-M-10086-2025

Date of decision: 21.07.2025

Parkash Singh alias Parkash Singh Vartia

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

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.62 dated 10.05.2023 under Sections 15/29 of the NDPS Act registered at Police Station Moonak District Sangrur.

Succinctly, the facts of the case are that on the basis of secret information, a *naka* was laid and Dalip Gupta was apprehended with 100 kg of poppy husk and thus, the instant case.

Learned counsel for the petitioner *inter alia* contends that admittedly, 100 kgs of poppy husk was recovered from the conscious and exclusive possession of co-accused, namely, Dalip Gupta. The petitioner is not named in the FIR and he has been nominated as an accused 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 statements recorded by the police under Section 67 of NDPS Act would be hit by Sections 25 and 26 of Indian Evidence Act. Apart from the disclosure statement, there is no other



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evidence to connect the petitioner with the alleged recovery. The petitioner is behind the bars since 30.11.2024.

The learned State counsel has filed custody certificate along with status report 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 a habitual offender and is involved in 11 more cases, out of which, in 04 cases, he has been acquitted and the quantity involved in the present case falls under the ambit of commercial quantity and as such, it will create an embargo of Section 37 of the NDPS Act and thus, the petitioner 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."

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.

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

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30.11.2024. 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 only 01 out of 19 prosecution witnesses, 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.

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-Parkash Singh @ Parkash Singh Vartia, 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

21.07.2025*Neha*

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