



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

**CRM-M-14188-2025**  
**Date of decision: 20.03.2025**

**SUNIL KUMAR**

**...PETITIONER**

**V/S**

**STATE OF HARYANA**

**...RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Amit Khari, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana &  
Mr. Anil Kumar Chahal, DAG, Haryana.

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**HARPREET SINGH BRAR, J. (ORAL)**

1. The present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.449 dated 24.07.2024 under Sections 20/29 of the NDPS Act registered at Police Station Samalkha, District Panipat.

2. The FIR (*supra*) was registered on the basis of secret information that Manish @ Kala, Amit, Pradeep and Vishal who are engaged in selling drugs in huge quantity were coming in white car bearing registration No. HR-06-BA-3386 from Delhi and the information was found credible and correct and on the basis of the alleged recovery, the FIR (*supra*) was registered. On the basis of disclosure statement made by co-accused, the petitioner was nominated in the present case.

3. Learned counsel for the petitioner *inter alia* contends that similarly situated co-accused, namely, Anil Yadav has been granted the concession of regular bail by this Court vide order dated 10.03.2025 in case



bearing *CRM-M No.12219 of 2025* titled as '*Anil Yadav vs. State of Haryana*'. He further contends that the petitioner has been nominated as accused, in the present case, on the basis of disclosure statement made by co-accused while being in police custody, which has no evidentiary value in the eyes of law and the same is hit by Section 25 of the Indian Evidence Act. Further, the alleged contraband was not recovered from the exclusive and conscious possession of the petitioner.

4. 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 the petitioner is the supplier of *ganja* recovered from the co-accused, as such, the complicity of the petitioner is duly established. He further submits that the petitioner is involved in two more cases. However, he could not controvert the fact that co-accused of petitioner has already been granted the concession of regular bail by this Court.

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 the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 29.07.2024. 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 18 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.

7. As far as the issue of the petitioner being a habitual offender is concerned, the Hon'ble Supreme Court in ***Prabhakar Tewari vs. State of U.P. 2020 (11) SCC 648*** and ***Maulana Mohd. Amir Rashadi vs. State of U.P. and another (2012) 2 SCC 382***, has categorically held that the grave and serious allegations leveled against the accused or pendency of other cases against him cannot be the only basis to refuse the prayer of bail.

8. 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-Sunil Kumar 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.



9. 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.

March 20, 2025  
*manisha*

(HARPREET SINGH BRAR)  
JUDGE

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