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

CRM-M-16031-2025

Date of decision: 27.03.2025

Sachin Kumar

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Ram Singh Chaudhary, Advocate
for the petitioner.

Mr. Sandeep Kumar, 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.140 dated 04.12.2023 under Sections 22-C/29 of NDPS Act registered at Police Station 'D' Division, District Amritsar (Annexure P-1).

Succinctly, the facts of the case are that a police party was on patrolling duty at Golbagh, Yatri Niwas Nagar Nigam and on the basis of secret information the accused persons, namely, Prince Kumar @ Rajan and Baljinder Singh were apprehended with Tramadol sustained release tablets IP intoxicant tablets, marka Clovedol 100 SR lying in 29 boxes, each box has 60 strips, each strip has 10 intoxicant tablets (total 14500 intoxicant tablets in 29 boxes) subsequently, FIR (*supra*) was registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner is not named in the FIR (*supra*). Admittedly, nothing has been recovered from the conscious and exclusive possession of the petitioner. The petitioner has been nominated as an accused in the present case on the basis of



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disclosure statement made by Gurpreet Singh during his custodial interrogation which has no evidentiary value in the eyes of law and also hit by Section 25 of the Indian Evidence Act. Initially, three persons were nominated as an accused from whom the intoxicating tablets were allegedly recovered. As per the case set up by the prosecution, the petitioner is the owner of a firm which manages the drug money of the accused. He further submits that the petitioner is not involved in any other case and there are 15 accused and the petitioner is behind the bars since 26.12.2023. In spite of passing of more than 15 months, trial of the case has not made much progress.

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 has played an active role in managing the drug money and he is instrumental in the cartelization of the drug syndicate. However, he could not controvert the fact that the petitioner is not involved in any other case and he suffered an incarceration of more than 15 months.

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."

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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 26.12.2023. 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 only 03 out of 34 prosecution witnesses have 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-Sachin Kumar, 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

27.03.2025*Neha*

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