



237

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

CRM-M-17809-2025

Date of decision: 29.07.2025

Prabhjot Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Vikas Kumar Gupta, 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.281 dated 05.11.2024 under Section 18 of the NDPS Act registered at Police Station Sadar Kharar District Mohali.

Compactly, the facts of the case are that on 05.11.2024, when police party in connection with checking of bad elements laid naka at T-point of Village Tole Majra at around 05:30PM, they spotted a Sikh gentleman, who was carrying black coloured backpack on his left shoulder. On seeing the police party, the aforesaid person got perplexed and tried to turn back. On suspicion, he was intercepted and nabbed by the police officials. On asking, he disclosed his name as Jashandeep Singh @ Jashan. It is further alleged that upon checking the aforesaid bag, Rs.50,000/- cash along with contraband in the shape of 2 Kg of Opium was recovered from him without any permit or license. Accordingly, he was arrested on the spot. During investigation, aforesaid accused Jashandeep Singh suffered a disclosure statement under Section 23 (2) of BSA, 2023, on the basis of which recovery of 2 Kg 360 gm Opium along



CRM-M-17809-2025

-2-

with drug money of Rs.22,08,000/- was effected. In the aforesaid disclosure statement, he also disclosed that he along with Prabhjot Singh (the petitioner herein), Gurjant Singh @ Janta and Gurmeet Singh are indulging in drug trafficking of opium. Accordingly, on the basis of aforesaid disclosure statement, present petitioner, namely, Prabhjot was nominated as an accused and thus, the instant case.

Learned counsel for the petitioner *inter alia* contends that admittedly, the contraband was recovered from the conscious possession of the co-accused, namely, Jashandeep Singh @ Jashan. The petitioner 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. It is a trite law that any statement recorded by the police official under Section 67 of the NDPS Act would be hit by Sections 25 and 26 of the Indian Evidence Act. The petitioner is behind the bar since 08.11.2024. Investigation of the case is complete and till date, out of total 10 prosecution witnesses, not even a single witness has been examined. Further, there is no material available on record to prove the conscious possession of the petitioner over the alleged contraband and the petitioner is not involved in any other case.

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 complicity of the petitioner is duly established in the present case. However, he could not controvert the fact that the petitioner is not involved in any other case and till date, out of total 10 prosecution witnesses, not even a single witness has been examined.

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 10.11.2024. 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 out of 10 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.

**CRM-M-17809-2025****-4-**

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-Prabhjot Singh, 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

29.07.2025*Neha*

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