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

CRM-M-16465-2025

Date of decision: 14.07.2025

Sushil Kumar

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. S.S. Sahu, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, 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.209 dated 20.08.2023 under Sections 15C/29/61/85 of NDPS Act registered at Police Station Nathusari Chopta, District Sirsa.

The FIR was lodged pursuant to receipt of secret information to the effect that four persons namely Krishan Fagedia, Jaiveer @ Jaibir, Dara Singh Machra and Surender @ Dholu had concealed 400 kilograms of '*poppy husk*' in rooms constructed behind Government School of Village Rupana. Pursuant to receipt of said information, a raid was conducted at the nominated place i.e. behind Government School, Village Rupana and 400 kilograms of '*poppy husk*' was recovered. However, none of the accused was arrested from the spot. It is further the case of prosecution that after about 9 months of lodging of the FIR, the petitioner, who is also known by the name of Dara Singh, was apprehended by the police from his village.



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Learned counsel for the petitioner *inter alia* contends that identically situated co-accused, namely, Rajesh Kumar @ Dara Singh and Salinder @ Surender Kumar @ Dholu, have been granted the concession of regular bail by this Court vide order dated 05.09.2024 passed in CRM-M-42679-2024 titled as 'Rajesh Kumar @ Dara Singh Vs. State of Haryana' (Annexure P-3) and order dated 13.12.2024 passed in CRM-M-61845-2024 titled as 'Salinder @ Surender Kumar @ Dholu Vs. State of Haryana' (Annexure P-4), respectively. He further submits that there is no evidence available on record to connect the petitioner with the alleged recovery of poppy husk. There is no legal evidence to establish the exclusive and conscious possession of the petitioner over the alleged contraband and moreover, the petitioner has been declared as accused after 13 months of the alleged recovery. Except the secret information, there is no other evidence to remotely suggest the complicity of the petitioner. The petitioner is behind the bars since 21.11.2024 and out of 34 prosecution witnesses, not even a single witness has been examined till date.

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 during the investigation and further keeping in view his criminal antecedents, he is not entitled to any relief. He further submits that the petitioner is involved in seven other cases. However, he could not controvert the fact that co-accused, namely, Rajesh Kumar @ Dara Singh, who has been granted the concession of regular bail by this Court, is also facing 07 other criminal cases.



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 21.11.2024. 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 34 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.

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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-Sushil 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

14.07.2025*Neha*

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