



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-17922-2025 (O&M)
Date of decision: 07.04.2025

Rekha Vashistha

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Keshav Partap Singh, Advocate
and Mr. Harshit Ahuja, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

CRM-13556-2025

Heard.

Allowed as prayed for.

CRM-M-17922-2025

1. Prayer in this 2nd petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.140 dated 04.12.2023 registered under Sections 22-C/29 of the NDPS Act at Police Station 'D' Division, District Amritsar.
2. The 1st petition filed by the petitioner was dismissed as withdrawn on 27.08.2024.
3. 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, make 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.

4. Learned counsel for the petitioner *inter alia* contends that the petitioner has been nominated in the case on the basis of the disclosure statement made by co-accused Sachin Kumar, who has already been granted the concession of regular bail vide order dated 27.03.2025, passed by this Court in CRM-M-16031-2025 (Annexure P-2). Admittedly, nothing has been recovered from the conscious and exclusive possession of the petitioner. He further submits that the alleged contraband has been recovered from the possession of the co-accused of the petitioner namely Prince and Baljinder. The petitioner is the Director of the manufacturing unit, who has supplied the intoxicant tablets to one firm situated in the state of Uttar Pradesh. He further contends that the petitioner is behind the bars since 21.12.2023 and in spite of passing of more than 15 months, the trial of the case has not made any progress.

5. Learned counsel for the petitioner further submits that there are total 34 prosecution witnesses cited in the list of witnesses, out of which, only 03 PWs have been examined till date and the trial is likely to take long time in conclusion.

6. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record and he opposes



the prayer made by learned counsel for the petitioner on the ground that the petitioner is instrumental in cartelization of the drug syndicate. The firm to whom the petitioner had supplied the intoxicant tablets and capsules is non-existent and is a fake firm and therefore, the petitioner's complicity is writ large, however, he could not controvert the fact that the petitioner is not involved in any other case.

7. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 01 year, 03 months and 07 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress. Out of 34 prosecution witnesses, 03 PWs have been examined so far.

8. A two Judge Bench of Hon'ble Supreme Court in ***"Satender Kumar Antil vs. 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.”

9. Further the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. 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.

10. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Rekha Vashistha is ordered to be released on regular bail during pendency of the trial, on her furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

11. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

07.04.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No