

Date of decision: 23.05.2025

1. CRM-M-17984-2025

...PETITIONER

V/S

...RESPONDENT

2. CRM-M-23081-2025

...PETITIONER

V/S

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Varinder Singh Rana, Advocate for the petitioner.
(in CRM-M No.17984 of 2025)

Mr. Nitin Bhanwala, Advocate for the petitioner.
(in CRM-M No.23081 of 2025)

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This order of mine shall dispose of both the above-mentioned petitions as both the petitioners are co-accused and are involved in the same FIR. For the sake of brevity, facts are borrowed from ***CRM-M-17984-2025*** titled as ***Robin Gupta vs. State of Haryana***.



2. Prayer in these petitions filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioners in FIR No.39 dated 09.02.2025 registered under Sections 22-C/29 of NDPS Act at Police Station Civil Line, District Kaithal.

3. Brief facts of the prosecution case are that on 08.02.2025, ASI Rajesh Kumar along with co-police officials was on patrolling duty for prevention of crime near railway crossing, bus stand Kaithal, where secret informer informed him that Vikram @ Kalu son of Daya Ram and Sanjeev son of Ram Kumar, are indulged in selling narcotics tablets near bus stand, Kaithal and Hanuman Vatika, Kaithal and they would come at Randhir Colony, Karnal Road, Kaithal for sale of narcotic tablets to drug addicts and could be apprehended along with narcotic tablets. Upon the said information, notice under Section 42 of NDPS Act was prepared and sent to police station Civil Line Kaithal and after about 10-15 minutes two persons were seen coming on a motorcycle from the side of Sugar Mill, Kaithal and were apprehended. On asking, the driver of motorcycle disclosed his name Sanjeev son of Ram Kumar, resident of Kapil Nagar, Kaithal and pillion rider disclosed his name Vikram @ Kalu son of Daya Ram, resident of Kapil Nagar, Kaithal and he was having a polythene in his hand. On search of the said polythene, 90 strips of banned tablets i.e. 10 tablets in each strip of Tramadol Hydrochloride Sustained Release Tablets IP 100 mg, Trohima-100 SR were found, which were narcotic tablets and were banned. As such, Vikram @ Kalu and Sanjev by keeping 900 banned narcotic tablets weighing 278.1 grams had committed offence under Section 22(c) of NDPS Act, on which Tahrir was sent to police station and FIR was got lodged.



4. Learned counsel(s) for the petitioners *inter alia* contend that the petitioners have been falsely implicated in the present case as they were neither named in the FIR (*supra*) nor any intoxicant tablets were recovered from their conscious and exclusive possession. They further contend that the petitioners have been nominated on the basis of disclosure statements made by co-accused, during custodial interrogation and it is a trite law that any statement recorded by the police officer under Section 67 of the NDPS Act would be hit by Section 26 of the Evidence Act, which has no evidentiary value in the eyes of law. Furthermore, apart from the disclosure statement of co-accused, there is no other evidence to connect the petitioners with the alleged recovery. They submit that the petitioners are not involved in any other case under the NDPS Act and are behind the bars since 10/11.02.2025.

5. Learned State counsel produces the custody certificates of the petitioners, which are taken on record. *Per contra*, he opposes the prayer made by learned counsel(s) for the petitioners on the ground that the petitioners are suppliers of the intoxicant, which was recovered from co-accused, as such, their complicity is duly proved on record. However, he could not controvert the fact that the petitioners are not involved in any other case and there is no other evidence against them apart from the disclosure statements of co-accused.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioners are behind the bars since 10/11.02.2025. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Trial of the case is likely to take long time. The culpability, if any, would be determined at the time of



trial. No useful purpose shall be served by further detention of the accused/petitioners. Keeping the petitioners in further detention, without the prospect of the trial being concluded in the near future, would be violative of their rights under Article 21 of the Constitution of India.

7. 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."

8. In view of the discussion above, both the petitions are allowed. Accordingly, without commenting upon the merits of the case, the petitioners, namely, Robin Gupta and Ram Mehar are ordered to be released on regular bail during pendency of the trial, on their furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

9. 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.

10. A photocopy of this order be placed on the file of other connected case.

May 23, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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