



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

CRM-M-18675-2025
Date of decision: 09.04.2025

GOURAV SHARMA ALIAS NONA

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jagdish Singh Mahal, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This is the first petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS) for grant of regular bail to the petitioner in case bearing FIR No.0042 dated 11.03.2024 under Sections 21(C) and 29 of NDPS Act, 1985 registered at Police Station Special Task Force, District STF Wing, Special Task Force, District SAS Nagar, Mohali (Annexure P-1).

2. In brief, facts of the case are that on 10.03.2024, on the basis of secret information, ASI Manoj Kumar along with other police officials conducted raid at Bus Stand, Mukerian and apprehended co-accused, namely Heera Singh @ Jaggi and after some time, they apprehended the petitioner along with car bearing No.PB-06-R-0026. Upon personal search of co-accused Heera Singh @ Jaggi, 300 grams of Heroin was recovered from the right pocket of his lower. Hence, the FIR (*supra*) was registered against the petitioner and co-accused.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner is totally innocent and has been falsely implicated in the present



case as admittedly, no recovery was effected from the petitioner. Further, the petitioner was arrested while sitting in the car, after the arrest of the co-accused, from a different place and the contraband was recovered from the conscious and exclusive possession of co-accused Heera Singh @ Jaggi. Furthermore, there is no legal evidence against the petitioner to establish any connection with the recovered contraband. He submits that the petitioner is not involved in any other case under the provisions of NDPS Act. Further, the investigating agency has already concluded the investigation and presented the final report before the jurisdictional Court, Furthermore, the petitioner is behind the bars since 14.03.2024 and the trial of the case has not made any progress.

4. Learned State counsel produces the custody certificate of the petitioner, which is taken on record and *per contra*, opposes the prayer of the petitioner on the ground that the petitioner was duly named in the secret information. Further, the petitioner was travelling with the co-accused and was arrested while sitting in the car, as such, his complicity is duly proved. However, he could not controvert the fact that the petitioner is not involved in any other case and out of 19 prosecution witnesses, only 01 has been examined till date.

5. 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.”

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bar since 14.03.2024, as per his custody certificate. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Trial of the case has not made much progress, as out of 19 witnesses cited by the prosecution, only 01 has been examined till date. 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 her rights under Article 21 of the Constitution of India.

7. In view of 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-Gourav Sharma @ Nona is ordered to be released on regular bail during the pendency of the trial on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.



8. 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.

April 09, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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