



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

**CRM-M-18471-2025
Date of decision: 09.04.2025**

ASHOK KUMAR

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Satnam Singh Gill, 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.151 dated 02.09.2023 under Sections 15 of NDPS Act, 1985 (Section 29 of NDPS Act added later on) registered at Police Station Bhawanigarh, District Sangrur.

2. As per prosecution version, the FIR (*supra*) was registered on the basis of secret information with the allegation that one Dinesh Malik and Ashok Kumar (petitioner herein), who were closely related to each other, were trying to get the car, bearing registration No.HR 31R-6483, repaired standing on Bhawanigarh Samana Road, and two plastic bags were lying in the rear seat of said car from which poppy husk was clearly visible and if raid is conducted, the said contraband can be recovered. Accordingly, raid was conducted, however, nobody was apprehended from the spot. On checking of the car, four plastic bags containing 20 kilograms each of poppy husk i.e. total 80



kilograms of poppy husk, was recovered. From further search of the car, Aadhar Card of petitioner-Ashok Kumar, his driving licence and Aadhar card of Dinesh Malik and RC of said car issued in the name of one Satish son of Ram Singh, were recovered. The recovered material was taken into police possession in accordance with law. On his interrogation, co-accused Ajay was nominated in this case and the offence under Section 29 of NDPS Act was added. The contraband recovered from the petitioner and co-accused falls under the commercial quantity. Hence, the FIR (*supra*) was registered against the petitioner.

3. Learned counsel for the petitioner, *inter alia*, contends that as per the case set up by the prosecution 80 kgs of Poppy Husk was recovered from a car, which is owned by one Satish and as per the investigation conducted by the police, the car in question was sold by its owner Satish to co-accused Dinesh Malik. Further, one of the co-accused, namely, Ajay Kumar has been granted the concession of anticipatory bail by this Court in case bearing **CRM-M No.4892 of 2024** titled as '**Ajay Kumar vs. State of Punjab**' and identically placed co-accused namely, Dinesh Malik has been granted the concession of regular bail by a Co-ordinate Bench of this Court in case bearing **CRM-M No.36035 of 2024** titled as '**Dinesh Malik vs. State of Punjab**'. Learned counsel submits that it is the admitted case of the prosecution that nothing was recovered from the conscious possession of the petitioner and neither was he arrested at the spot and he has been nominated as accused on the basis of discovery of Aadhar Card and Driving Licence from the car. Further, Aadhar Card of co-accused, namely, Ajay Kumar was also found in the car, who has been granted the concession of anticipatory bail by this Court. Furthermore,



the story propounded by the prosecution is highly improbable in this regard and otherwise there is no legal evidence to connect the petitioner with the alleged recovery of contraband. Lastly, he submits that the petitioner is having clean antecedents as he is not involved in any other case.

4. Learned State counsel produces the custody certificate of the petitioner, which is take on record and *per contra*, opposes the prayer of the petitioner on the ground that Aadhar Card and Driving Licence of the petitioner were found in the car, from which, 80 kgs of Poppy Husk was recovered and the said quantity falls within the ambit of commercial quantity. However, he could not controvert the fact that similarly situated co-accused have been granted the concession of anticipatory and regular bail by this Court.

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 01.02.2025. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. The trial of the case is likely to take long time as out of 26 witnesses cited by the prosecution, 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.

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-Ashok Kumar 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

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