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

CRM-M-18243-2025

Date of decision: 16.07.2025

Sandip Kumar alias Sandeep Kumar alias Sandeep Jaiswal

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vaibhav Dubey, Advocate and
Ms. Suruchi Jaiswal, 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.46
dated 21.01.2024 under Sections 22(c)/29 of the NDPS Act registered at Police
Station Sector 32-33, Karnal, Haryana.

Succinctly, the FIR (*supra*) was registered on the basis of secret
information that in Durga Colony, Gali No.4 Karnal, Rakib Ali, Gopal alias
Sarif and Parshant Garg are carrying on the business of narcotic substances in
the godown. It is further alleged that Rakib Ali and Parshant Garg are present
in the godown/shop and if a raid is conducted, they can be nabbed red handed
with intoxicated drugs contained in boxes and the information found credible
and raid was conducted and they said persons were apprehended with 117120
capsules of Tramadol weighing 63 kg 440 grams and 217800 tablets of
Alprazolam weighing 28 kg 128 grams and thus, the present case.

Learned counsel for the petitioner *inter alia* contends that the



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petitioner has been falsely implicated in the present case as he has no concern with the alleged recovery of intoxicating tablets and capsules. Admittedly, the recovery of these intoxicating drugs was made from the conscious possession of co-accused, namely, Parshant Garg and Rakib Ali, who were apprehended at the spot along with the contraband. Further, on the basis of disclosure statement made by aforementioned accused persons during their custodial interrogation, one Sarif alias Gopal was nominated as an accused and thereafter, pursuant to his arrest, the petitioner was nominated as an accused on the basis of disclosure statement made by co-accused-Sarif @ Gopal which has no evidentiary value in the eyes of law. He further submits that apart from the disclosure statement, there is no corroborative evidence either forensic or otherwise to connect the petitioner with the alleged recovery. The petitioner is behind the bars since 29.12.2024 and he is not involved in any other case and having clean antecedents.

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 investigation on the basis of call details and banking transactions and a huge quantity of intoxicating tablets have been recovered in the present case which falls within the ambit of commercial quantity, as such, it will create an embargo of Section 37 of the NDPS Act. However, he could not controvert the fact that the petitioner is not involved in any other case.

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 29.12.2024. 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 33 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.

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-Sandip Kumar @ Sandeep Kumar @ Sandeep Jaiswal, 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

16.07.2025

Neha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No