



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

**CRM-M-18612-2025**  
**Date of decision: 09.04.2025**

**KAMLESH**

**...PETITIONER**

**V/S**

**STATE OF HARYANA**

**...RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. P.S. Sekhon, Advocate  
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

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**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.54 dated 06.02.2025 under Sections 21-B and 29 of NDPS Act, 1985 registered at Police Station City Rohtak, District Rohtak (Annexure P-1).

2. In brief, facts of the case are that on 06.02.2025, SI Jitender along with other police officials was present at Sansi Chowk, Rainakpura, Rohtak. On the basis of a secret information, he conducted raid near Shiv Mandir, Rainakpura Rohtak, near Johar and apprehended the petitioner. From her personal search, 50 grams of Heroin was recovered. Hence, the FIR (*supra*) was registered against the petitioner.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the present case and recovery of 50



grams of Heroin has been planted upon her in order to show the recoveries under the NDPS cases. He further contends that the alleged contraband recovered from the petitioner, falls under ambit of non-commercial quantity. Furthermore, there is a complete non-compliance of Section 50 of the NDPS Act, as the offer made to the petitioner was defective. He submits that keeping in view the recovery in question, the embargo created by Section 57 of the NDPS Act is not attracted in the present case. Further, the petitioner is a household lady and mother of two children, which requires a lenient view.

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 there is sufficient material available on record to indicate the complicity of the petitioner. Further, petitioner is a habitual offender as earlier also, she was involved in one more case under the NDPS Act. However, he could not controvert the fact that the petitioner is on bail in that case.

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 07.02.2025. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Till date, charges have also not been framed. 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. Keeping in view the law laid down by the Hon'ble Supreme Court of India in ***“Prabhakar Tewari vs. State of U.P. and another”*** 2020 (1) R.C.R. (Criminal 831) and ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

8. 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-Kamlesh 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 |