



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

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CRM-M-19145-2025
Date of decision: 31.07.2025

Bakhshish Singh @ Lalli

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kamal Gupta, Advocate
and Mr. Sanish Girdhar, Advocate
for the petitioner.

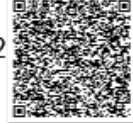
Mr. Subhash Godara, Addl. A.G., Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.0051 dated 19.03.2019 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station City Patti, District Tarn Taran.

2. The FIR (supra) was registered against the petitioner on 19.09.2019 under Section 21 of the NDPS Act on the ground that he was apprehended at the spot and 10 grams of heroin was recovered from him and 160 grams of heroin was recovered from the co-accused Angrej Singh.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner was released on regular bail vide order dated 28.05.2019 and he was regularly appearing before the learned trial Court, however,



on 14.10.2022, the petitioner, who was working as a driver, in order to earn his livelihood, had gone out of station and the learned counsel representing the petitioner before the learned trial Court has moved an application seeking personal appearance, however, the learned trial Court cancelled his bail and forfeited the bail/surety bonds to the State. Further, non-bailable warrant was issued against the petitioner and ultimately, he was declared as proclaimed offender. The petitioner, thereafter, surrendered before the jurisdictional police authorities and he is behind the bars since 06.02.2025 and he has suffered the incarceration of more than 07 months. The contraband allegedly recovered from the conscious possession of the petitioner does not fall under the ambit of commercial quantity and as such the embargo created under Section 37 of the NDPS Act would not apply in the present case. The petitioner is having clean antecedents and is not involved in any other case.

4. Learned counsel for the petitioner further submits that there are total 10 prosecution witnesses cited in the list of witnesses, out of which, no PW has been examined till date and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that the complicity of the petitioner is duly established, however, he could not controvert the fact that the petitioner is not involved in any other case.



6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 07 months and 20 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress. Out of 10 prosecution witnesses, no PW has been examined so far.

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. Further the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further



detention of the petitioner-accused. 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.

9. In view of the above discussions, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Bakhshish Singh @ Lalli is ordered to be released on regular bail during pendency of the trial, on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

10. 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.

(HARPREET SINGH BRAR)
JUDGE

31.07.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No