



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

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CRM-M-20277-2025

Date of decision: 30.07.2025

Sunil Kumar @ Kala

....Petitioner

VS.

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sanchit Punia, Advocate
for the petitioner.

Mr. Neeraj Sheoran, Sr. DAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this 2nd petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.190 dated 14.05.2024 registered under Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Narnaund, Hansi, District Hisar. The 1st petition filed by the petitioner seeking the same relief was dismissed as withdrawn on 05.12.2024.

1.1. Learned counsel for the petitioner submits that this 2nd petition, seeking regular bail to the petitioner, has been filed on the ground of long incarceration of the petitioner and failure of the prosecution to conclude its evidence in spite of passing of more than 01 year.



2. As per the prosecution case, on 14.05.2024, SI Makhan Singh received a secret information that Sunil Kumar and Sandeep Kumar were transporting a large quantity of Ganja in a Brezza car bearing No.HR-21-N-3117 and a motorcycle bearing No.HR-15D-3120. Upon interception, 20.880 kgs of Ganja was recovered. Both Sunil Kumar and Sandeep Kumar were arrested and during investigation, co-accused Pawan @ Pauna was also arrested on 12.06.2024, from whom 173 kgs of Ganja was recovered in a separate FIR. Thereafter, the impugned FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the FIR (supra). The alleged recovery of 20.880 kgs of Ganja is marginally higher than the commercial quantity. The entire recovery was taken into possession vide recovery memo along with the bag and weighed collectively and in case, the weight of the bag is deducted from the alleged contraband, the recovery would fall under the ambit of non-commercial quantity. He further submits that the alleged recovery is only 880 gms higher than the non-commercial quantity. The petitioner has undergone total custody of 01 year, 02 months and 14 days.

4. Learned counsel for the petitioner further submits that there are total 16 prosecution witnesses cited in the list of witnesses, out of which, not even a single prosecution witness 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 commercial quantity of contraband was recovered from the conscious possession of the petitioner, which falls within the ambit of commercial quantity and the petitioner is involved in other cases also, as such, he is not entitled for any relief, however, he could not controvert the fact that no PW has been examined so far.

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 01 year, 02 months and 14 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 16 prosecution witnesses, not even a single prosecution witness has been examined so far. However, this delay in conclusion of the trial cannot be attributed to the petitioner.

7. The recovered contraband exceeds the commercial quantity only by 880 gms. In cases where the recovery only marginally breaches the threshold for commercial quantity of the alleged contraband, this Court has found it proper to grant regular bail. Reference in this regard can be made to the judgments rendered by this Court in ***Davinder Singh alias Baba vs. State of Punjab in CRM-M-64821-2023 decided on 25.01.2024***, ***Gurmeet Singh vs. State of Punjab in CRM-M-1007-2024 decided on 15.01.2024***, ***Ranjti Singh @ Ranjit Kumar vs. State of***



Punjab in CRM-M-57185-2022 decided on 10.01.2023, Jagtar Singh vs. State of Punjab in CRM-M-21460-2022 decided on 08.02.2023, Harjeet Singh alias Sonu vs. State of Punjab in CRM-M-8242-2023 decided on 15.01.2024, Jang Kanwar vs. State of Punjab in CRM-M-53415-2021 decided on 19.01.2022, Sukhchain Singh @ Manga vs. State of Punjab, CRM-M-7857-2022 decided on 04.04.2022, Pardeep Singh vs. State of Punjab, CRM-M-46244-2022 decided on 19.01.2023, Hari Yadav @ Haiya vs. State of Punjab (CRM-M-37645-2021)' decided on 11.11.2022, 'Shankar Prashad Chanau vs. The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar vs. State of Punjab, CRM-M-17021-2021, decided on 31.08.2021, Salim vs. State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Satnam Singh @ Chacha vs State of Punjab, CRM-M-34531-2020, decided on 25.02.2021, Gagandeep vs. State of Punjab, CRM-M-3055-2021, decided on 27.01.2021, Gurpreet Singh @ Gopi vs. State of Punjab, CRM-M41039-2019, decided on 26.02.2020, Dalbara Singh vs. State of Punjab, CRM-M-47880-2022 decided on 16.01.2023', and Vivek Watts vs. State of Punjab, CRM-M-13791-2022 decided on 15.02.2023.

8. Moreover, 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. In fact, 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. Finally, in view of the ratio of law laid down by Hon’ble Supreme Court in *Prabhakar Tiwari vs. State of UP and Anr. 2020(1) RCR (Criminal) 831* and *Maulana Mohd. Amir Rashadi vs. State of U.P. and Others 2012(2) SCC 382*, the involvement of an accused in other criminal cases cannot be the sole ground to deny the concession of bail to the petitioner.

10. In view of the discussions made hereinabove, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Sunil Kumar @ Kala 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.

11. 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

30.07.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No