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

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| 1) | | CRM-M-20184-2025
Date of decision: 30.07.2025 |
| | | |
| Gulshan Kumar | |Petitioner |
| | Versus | |
| State of Punjab | | ...Respondent |
| | | |
| 2) | | CRM-M-34943-2025 |
| | | |
| Balkar Singh @ Babbu | |Petitioner |
| | Versus | |
| State of Punjab | | ...Respondent |

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vishvajeet Singh Rishi, Advocate
for the petitioner (in CRM-M-20184-2025).

Mr. Ketan Chopra, Advocate
for the petitioner (in CRM-M-34943-2025).

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

This common order shall dispose of the aforementioned petitions as they arise from a similar factual matrix. However, for the sake of brevity, the facts are taken from CRM-M-20184-2025.

The present petition(s) has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.7 dated 18.01.2025 under Sections 105/190 of BNS registered at Police Station Ladowal, District Ludhiana, Punjab.

Succinctly, the facts of the case are that the youngest son of the complainant was a drug addict but he was not consuming the same for last



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sometime. Further, on 14.01.2025, the son of the complainant received a telephonic call from Jaskamal @ Jassa after which he left home and did not return until late night. The complainant searched him everywhere but in vain. Thereafter, the complainant went to the house of Jaskamal, whose mother told her that they had already disowned him. The complainant reported the matter to the police and on 17.01.2025 received a telephonic message from police station regarding recovery of a dead body. The complainant along with other family members reached the Civil Hospital, Ludhiana and identified the dead body of her son. It is further alleged that her son had disclosed her several times that he consumed drugs/intoxicating material after purchasing the same from Gulshan @ Jagga (the petitioner herein), Sonu, Manjit Kaur, Krishna, Rani, Jagmeet Singh @ Nuna, Jeet Kaur, Balkar Singh @ Babbu (the petitioner herein) and Lakhwinder Singh @ Toti. On inquiry, the complainant came to know that Jaskamal had brought her son along on his motorcycle and procured drugs/intoxicating material from Gulshan and they consumed it near the canal bridge, thereafter, Jaskamal left her son there and due to negligence, her son died and thus, the instant case.

Learned counsel for the petitioner(s) *inter alia* contends that similarly situated co-accused, namely, Jagmeet Singh @ Jagjeet Singh @ Nuna along with 05 other accused, have been granted the concession of anticipatory bail by this Court in CRM-M-11060-2025. The petitioner(s) has been falsely implicated in the present case and further perusal of the case set up by the prosecution clearly indicates that the case of petitioner, namely, Balkar Singh @ Babbu is identical to those who have been granted the concession of anticipatory bail. Further, the petitioner, namely, Gulshan Kumar, has been



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nominated as an accused on the basis of hearsay evidence. Both the petitioners are not involved in any other case under the NDPS Act and there is no material to remotely suggest that the petitioners are connected with the drug trafficking. Further, the petitioners, namely, Gulshan Kumar and Balkar Singh, are behind the bars since 18.01.2025 and 22.01.2025, respectively, and till date, there is no evidence to prove that son of the complainant has died due to homicidal death. The cause of death has been withheld by the doctor and it would only be given after the receipt of Histopathology report as well as report of the Chemical Examiner. He further submits that during the postmortem examination of the deceased, no injury or anything unnatural has been detected.

The learned State counsel has filed custody certificates in the Court today which are taken on record and per contra, opposes the grant of regular bail to the petitioners on the ground that there are serious allegations against the petitioners and thus, they are not entitled to any relief.

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 petitioners, namely, Gulshan Kumar and Balkar Singh @ Babbu, are behind the bars since 18.01.2025 and 22.01.2025, respectively. 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 08 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/petitioners. Keeping the petitioners in further detention without the prospect of the trial being concluded in the near future, would be violative of their rights under Article 21 of the Constitution of India.

In view the above, the present petitions are allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioners, namely, Gulshan Kumar and Balkar Singh @ Babbu, are ordered to be released on regular bail during trial on their 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



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without being prejudiced by observations of this Court.

A photo copy of this order be placed on the file of connected case.

(HARPREET SINGH BRAR)
JUDGE

30.07.2025

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