



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
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CRM-M-21836-2025
Date of decision: 23.07.2025

Rajesh Kumar
.....Petitioner
Versus
State of Punjab
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. B.S. Chahal, Advocate
and Mr. Madhur Jangra, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, 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.198 dated 23.09.2022 registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Sadar Dhuri, District Sangrur.
2. The present FIR was registered on the basis of a secret information received by ASI Hakam Singh on 23.09.2022 to the effect that Shamsheer Singh, who was habitual of selling intoxicant tablets, was going towards Ludhiana via Sangrur to Dhuri-Malerkotla on trailer bearing registration No.PB-02-CR-9815 and if a barrier is laid at Dhuri-Malerkotla road, he can be apprehended with huge quantity of intoxicant tablets. Thereafter, a trailer bearing registration No.PB-02-CR-9815 was seen coming from Dhuri side. On being signalled to stop



by ASI, driver of aforesaid trailer tried to turn it back, but its engine stopped. Thereafter, he tried to run away from the spot and threw a polythene bag having strips, but the same got scattered. On being enquired, he disclosed his name as Shamsher Singh and on making the search, 45 strips, each string contained 20 tablets (total 900 tablets) of Diphenoxylate Hydrochloride and Atropine Sulphate tablets IP Lomotil were recovered. Later on, on the basis of disclosure statement made by co-accused, the petitioner has been nominated as an accused.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the FIR (supra). Admittedly, the recovery of contraband has been allegedly made from the conscious possession of co-accused Samsher Singh, who was apprehended at the spot. The petitioner has been nominated as an accused on the basis of disclosure statement made by co-accused, during his custodial interrogation, however, such statement recorded by a police officer under Section 67 of the NDPS Act, has no evidentiary value in the eyes of law as the same is hit by Sections 25 and 26 of the Evidence Act. The main accused from whose possession the contraband was allegedly recovered has already been granted the concession of regular bail by this Court vide order dated 03.10.2024, passed in CRM-M No.29266 of 2024.

4. Learned counsel for the petitioner further submits that the petitioner is not involved in any other case and there are total 18 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 commercial quantity of contraband has been recovered in the FIR (supra) and as such keeping in view the embargo created under Section 37 of the NDPS Act, the petitioner is not entitled to any relief, 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 05 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 18 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 Rajesh Kumar 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

23.07.2025

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