



220 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH

CRM-M-26890-2025

Date of decision: 22.05.2025

SURENDER

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Balraj Singh Rathee, Advocate and
 Mr. Mohan Sheoran, Advocate for the petitioner.
 Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This is the first petition filed under Section 483 BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.145 dated 16.03.2023, registered for the offences punishable under Sections 20, 25, 27A, and 29 of NDPS Act at Police Station Kharkhoda, Sonipat.

2. The brief facts of the present case are that on 15.03.2023, on the basis of secret information, SI Rajbir, along with other police officials, set up a barricade to intercept a vehicle suspected of carrying narcotic substances. Subsequently, a vehicle of which the petitioner and co-accused were occupants was stopped. Upon the search of the vehicle in question 101 Kg and 800 grams of *ganja* was recovered. Subsequently, the FIR (*supra*) was registered.

3. Learned counsel for the petitioner *inter alia* contends that similarly situated co-accused, namely, Hari Om @ Haiom has been granted the concession of regular bail by this Court vide order dated 27.03.2025 in case bearing **CRM-M No.15903 of 2025** titled as ***Hari Om @ Haiom vs. State of Haryana***. He further contends that co-accused Hari Om @ Haiom was driving the vehicle, from which, the alleged contraband was recovered.



Moreover, the petitioner was arrested on 16.03.2023 i.e. more than two years have passed, the prosecution has failed to conclude its evidence. Furthermore, out of 17 witnesses cited by the prosecution, not even a single witness has been examined till date. Learned counsel submits that the petitioner is entitled to grant of regular bail on the ground of parity.

4. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record and *per contra*, opposes the prayer made by the petitioner on the ground that a huge quantity of Ganja was recovered from the car, which was owned by the petitioner. The contraband recovered from the car was procured for further sale. Further, he has undergone a custody period of 01 year, 07 months and 16 days only. Therefore, in view of the grave nature of the allegations, the petitioner does not deserve the concession of regular bail.

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 the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 24.03.2023, as per his custody certificate. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. 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 his rights under Article 21 of the Constitution of India.

7. In view of the above facts and circumstances and also keeping in view the fact that the co-accused has been granted the concession of regular bail, 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-Surender 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.

May 22, 2025
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(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No