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

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Date of decision: 10.07.2025

1. CRM-M-28220-2025

Amarinder Singh @ Kalu

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M-28454-2025

Upkar Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. P.S. Sekhon, Advocate
for the petitioner in CRM-M-28220-2025.

Mr. Arjunveer Sharma, Advocate
for the petitioner in CRM-M-28454-2025.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Vide this common order, I intend to dispose of CRM-M Nos.28220 and 28454 of 2025, as common questions of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CRM-M-28220-2025.

2. Prayer in both these petitions filed under Section 483 of BNSS, 2023 is for grant of regular bail to the petitioner(s) namely Amarinder Singh @ Kalu and Upkar Singh in FIR No.09 dated

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30.01.2025 registered under Sections 21, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Rureke Kalan, District Barnala.

3. As per the allegations in the FIR, on 29.01.2025, SI Kuldeep Singh, along with few other police officials, proceeded towards village Dhaula via link road from Barnala – Bathinda highway. When the police party reached about 100 meters beyond the village Dhaula, then, it was about 10:15 P. M. and they spotted a stationed Verna car, without number plate. Two youths rummaging a polythene bag in the light of the car, and they after seeing the police party got perplexed and tried to escape from the spot. On the basis of suspicion, the police party apprehended both of them and on enquiry, they disclosed their name as Rajvir Singh and Gurpreet Singh. After complying with mandatory provisions of the NDPS Act, 1985, the search of Rajvir Singh and Gurpreet Singh were conducted, which resulted into recovery of intoxicant powder, weighing 306 grams. Both the said accused were arrested and thereafter, during the investigation, Iqbal Shah, Amarinder Singh (petitioner in CRM-M-28220-2025) and Upkar Singh (petitioner in CRM-M-28454-2025) were nominated as accused and the offence under Section 29 of the NDPS Act, 1985 was added vide G.D. No.15 dated 01.02.2025.

4. Learned counsel for the petitioner(s) *inter alia* contends that the petitioner(s) have been falsely implicated in the FIR (supra). Admittedly, the alleged contraband was recovered from the conscious

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possession of co-accused namely Rajvir Singh and Gurpreet Singh. The petitioner(s) have been nominated as an accused on the basis of the disclosure statement made by co-accused Rajvir Singh, during his custodial interrogation and 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. Both the petitioner(s) were arrested on 01.02.2025 and pursuant to disclosure statement, on the demarcation of petitioner – Amarinder Singh @ Kalu, 24 grams of intoxicant powder was recovered. As per the FSL report, the commercial quantity of intoxicant powder is 250 gms and therefore, the quantity recovered from the petitioner – Amarinder Singh @ Kalu, does not fall under the ambit of commercial quantity. Further, nothing has been recovered from the petitioner – Upkar Singh and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel has filed custody certificate(s) today in the Court which are taken on record and he opposes the prayer made by learned counsel for the petitioner(s) on the ground that the petitioner(s) complicity is duly established during the investigation and they are part of the gang, who is carrying out illegal sale of narcotics substance and both the petitioner(s) are involved in other cases also, however, he could not controvert the fact that the petitioner(s) are in custody from the last 05 months and 04 days.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner(s) are

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behind the bars from the last 05 months and 04 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.

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(s)-accused. Keeping the petitioner(s) in further detention without the prospect of the trial being concluded in the

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near future, would be violative of their rights under Article 21 of the Constitution of India.

9. In view the discussion above, the present petitions are allowed. Accordingly, without commenting upon the merits of the case, the petitioner(s) namely Amarinder Singh @ Kalu and Upkar Singh are ordered to be released on regular bail during pendency of the trial, on their 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.

11. A photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

10.07.2025
yakub

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