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

CRM-M-31135-2025

Date of decision: 16.07.2025

Lakhwinder Singh alias Lucky alias Sunny

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Ms. Kirtsimran Nagpal, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.169 dated 24.09.2024 under Sections 21(b)/27-A/29 of the NDPS Act registered at Police Station Chhehtra District Amritsar.

The allegations in brief are that the police apprehended the petitioner, namely, Lakhwinder Singh and recovery of 21 grams of Heroin and drug money worth Rs.2110/- was effected from him on 24.9.2024 and thus, the instant case.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. Further, co-accused, namely, Manga Singh @ Manga Dattar has been granted the concession of regular bail by this Court vide order dated 10.02.2025 passed in CRM-M-61979-2024 titled as 'Manga Singh @ Manga Dattar Vs. State of Punjab' (Annexure P-2). The petitioner is behind the bars since 27.09.2024 and the contraband which is allegedly recovered from the possession of the petitioner



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does not fall within the ambit of commercial quantity, as such, embargo under Section 37 of the NDPS Act is not applicable in the present case. Investigation of the case is complete and petitioner is not involved in any other case.

The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that the petitioner has been apprehended at the spot along with the contraband, as such, his complicity is duly established during investigation and thus, he is not entitled to any relief. However, he could not controvert the fact that the petitioner is not involved in any other case.

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.”



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Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 27.09.2024. 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 16 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/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.

In view the above, 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-Lakhwinder Singh alias Lucky alias Sunny, is ordered to be released on regular bail during trial on his 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 without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

16.07.2025

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