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

CRM-M-30903-2025 (O&M)

Date of Decision: 04.07.2025

HARDEEP SHARMA @ DEEPU

...PETITIONER

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mohinder Singh Joshi, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. This is the first petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case bearing FIR No. 83 dated 10.06.2024 registered under Sections 15, 25 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act') at Police Station Lehra, District Sangrur.

2. The contents of the above-mentioned FIR are reproduced herein-below:-

"Copy of the ruqa: SHO PS Lehra. Today, I, ASI along with HC Jaswinder Singh 1295/SNG, C. Gursewak Singh 745/Sng, C. Sandeep Singh 989/Sng, CC Hardeep Dass 197/Sng and CC. Jagjit Singh no. 941/Sng, by boarding government car Mahinder Scorpio no. PB-65BF-4853, being driven by C. Bhola Singh 2086/Sng, with regard to patrolling and checking of suspected persons were present at Ghorenab T. Point, Kalbanjara. The time was about 07:45 am that a secret informer came present and separately informed me ASI that Gurjit Singh alias Bhura son of Maghar Singh, resident of Raidharana, Satgur Singh son of Gurjant Singh resident of Raidharan, Kuldeep Sharma son of Lachman Dass, resident of Raidharana are addicted to selling poppy husk. Who bring poppy husk in heavy quantity from outside State and are in the habit of selling it further. Now also, they have brought poppy husk in heavy quantity and have kept the same in the room built on the tubewell motor of the field of Kuldeep Singh son of Nahar Singh resident of Ghorenab who is the relative of Gurjit Singh alias Bhura Foji. That today also, Gurjit Singh alias Bhura Fauji son of Maghar Singh resident of resident of Raidharana along with Satgur Singh son

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of Gurjant Singh and Kuldeep Sharma son of Lachman Dass resident of Raidharana, by boarding their car Maruti Brezza no. HR-26DA-9748, in order to supply the poppy husk, are going to pick it up from the said room on the tubewell motor. In case, a raid is conducted right now on the room on the tubewell motor in the field of said Kuldeep Singh, then said Gurjit Singh alias Bhura Fauji, Satgur Singh and Kuldeep Sharma can be apprehended along with said car Maruti Brezza and heavy quantity of poppy husk. That the information is trustworthy. Regarding the information, written secret information under section 41(1) NDPS Act was prepared separately and on the memo, the signatures of the witnesses were obtained. Therefore, Gurjit Singh alias Bhura Fauji son of Maghar Singh resident of Raidharana, Satgur Singh son of Gurjant Singh resident of Raidharana and Kuldeep Sharma son of Lachman Dass resident of Raidharana, by bringing heavy quantity of poppy husk from outside State and selling and Kuldeep Singh son of Nahar Singh resident of Ghorenab has provided the room in his field for storing and keeping the said poppy husk, have committed the offence u/s 15, 25/61/85 NDPS Act. Therefore, the present ruqa with regard to registration of the case under the said offence against said Gurjit Singh alias Bhura Fauji son of Maghar Singh resident of Raidharana, Satgur Singh son of Gurjant Singh, resident of Raidharana and Kuldeep Sharma son of Lachman Dass resident of Raidharana and Kuldeep Singh son of Nahar Singh resident of Ghorenab has been typed and printed and is being sent to the police station by hands of CC Jagjit Singh 941/Sng, case be registered and number be informed from file. I, ASI along with fellow officials, am leaving for the field of said Kuldeep Singh with regard to conducting raid at Ghorenab T. Point, Kalbanjara, Time 08:30 am, Sd/ ASI Prem Singh no. 1598/Sng CIA Sangrur dated 10.06.2024. XXXX"

3. Learned counsel for the petitioner *inter alia* contends that admittedly the poppy husk was recovered from the agricultural fields of co-accused Kuldeep Singh, who has been granted the concession of regular bail by the Co-ordinate Bench of this Court vide order dated 19.12.2024(Annexure P-2) passed in CRM-M-62849-2024. Initially three persons were named in the FIR(supra) and the petitioner is neither named in the FIR nor any narcotic substance has been recovered from his conscious possession. The petitioner has been nominated on the basis of disclosure statement made by co-accused Gurjit Singh during his custodial interrogation, which has no evidentiary value in the eyes of law as any statement recorded by the police under Section 67 of NDPS Act would be hit by Sections 25 and 26 of Indian Evidence Act. Further, the Investigation Officer has very surprisingly declared co-accused Kuldeep Sharma as innocent, in whose possession the poppy husk was allegedly recovered and



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the petitioner is not involved in any other case. Investigation of the case is complete and petitioner is behind the bars since 13.03.2025.

4. Learned State counsel produces the custody certificate of the petitioner, which is taken on record and *per contra*, opposes the grant of regular bail to the petitioner on the ground that complicity of the petitioner is duly established and the alleged contraband recovered in the present case falls within the ambit of commercial quantity. However, he could not controvert the fact that petitioner is not involved in any other case.

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 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 03 months and 20 days as on 03.07.2025. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case will take considerable long time to conclude. No useful purpose shall be served by further detention of the accused/petitioner.

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7. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner-Hardeep Sharma @ Deepu 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.

8. 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

04.07.2025*Ajay Goswami**Whether speaking/reasoned**Whether reportable**Yes/No**Yes/No*