



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

216

CRM-M-36327-2024 (O&M)

Date of decision: 26.03.2025

Tarsem Singh @ Sona

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. B.S. Aulakh, Advocate
for the petitioner.

Mr. Sandeep Kumar, 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.316 dated 19.09.2020 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Lambi, District Sri Muktsar Sahib.

2. As per the prosecution case, on 19.09.2020, ASI Rajinder Singh and his police team were on duty near Fatta Khera when they saw two young men fleeing after dropping a bag containing drug pills. One of them, Gurpreet Singh, was apprehended at the spot and identified his associates as Arshdeep Singh, Sona Singh (petitioner herein), and Akashdeep Singh. Thereafter, a search was conducted in the presence of Deputy Superintendent of Police and recovery of 595 strips (5950 tablets) of Tramadol Hydrochloride was effected from Gurpreet Singh.



During the course of investigation, two motorcycles were seized and even recovery of Rs.200/- was effected from Gurpreet Singh. Subsequently, the FIR (supra) was registered and thereafter, on the basis of disclosure statement Sona Singh (petitioner herein), was nominated as accused.

3. Learned counsel for the petitioner *inter alia* contends that as per the case set up by the prosecution, nothing has been recovered from the conscious and exclusive possession of the petitioner. Admittedly the alleged contraband was recovered from the conscious possession of co-accused Gurpreet Singh and the petitioner has been nominated as an accused on the basis of the disclosure statement made by co-accused Gurpreet Singh, during his custodial interrogation which has no evidentiary value in the eyes of law. He submits that the petitioner was granted the concession of anticipatory bail by this court on 26.11.2020 passed in CRM-M No.39221 of 2020 (Annexure P-2). Thereafter, the petitioner has been regularly appearing before the learned trial Court, however, the petitioner met with an accident and later on, he was declared as proclaimed offender on 12.03.2024 and was subsequently arrested on 18.03.2024. Learned counsel for the petitioner further submits that till date the petitioner is behind the bars and he has undergone actual custody of more than 01 year and the prosecution has examined only 06 prosecution witnesses, out of 26 prosecution witnesses and 04 PWs have been given up.



4. *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 the petitioner intentionally absented himself from the Court proceedings and he is involved in four other cases registered under the provisions of IPC and Excise Act, however, he could not controvert the fact that the petitioner was granted the concession of anticipatory bail by this Court on 26.11.2020 and the trial has not yet progressed significantly.

5. 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 01 year and 06 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 26 prosecution witnesses, 06 PWs have been examined so far and 04 PWs have been given up.

6. 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.”

7. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Tarsem Singh @ Sona is ordered to be released on regular bail during pendency of the trial, on his 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

26.03.2025
yakub

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