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

CRM-M-32659-2025

Date of decision: 07.07.2025

Kamal Pathania

....Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. Parminder Walia, 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.13 dated 21.05.2025 under Sections 61/01/14 and 78(2) of the Punjab Excise Act, 1914 read with Sections 318(4)/336(3)/111 of BNS registered at Police Station Nangal Bhoor, District Pathankot (Annexure P-1).

Succinctly, the facts of the case are that on 21.05.2025, an Excise Inspector, namely, Anil Kumar along with Excise Police Staff on the basis of secret information was present at picket Mirthal where secret informer gave an information that a vehicle bearing No. PB-35-AM-7415 (Ashoka Leyland Canter) loaded with liquor could be caught by laying a picket at Mirthal. On the basis of information, Excise picket was laid at Mirthal and at around 08:15 P.M., when the vehicle was going to cross from Mirthal picket, then it was stopped by Excise Police and District Picket Police. On searching the vehicle, about 265 boxes of different brands of liquor were found i.e. (1) PML 65 Punjab Club Gold Rum XXX = 198, (2) IMFL Royal Stage = 32, (3) IMFL



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M.C. No.1=33, (4) IMFL Blender Pride = 02 in total 265. It is further alleged that the driver disclosed that he does not possess any document regarding he said liquor and thus, the present FIR.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. Initially, the FIR was registered under the provisions of Section 61 of the Punjab Excise Act which is bailable in nature, however to render the case non-bailable, offences under Sections 318(4)/336(3)/111 of BNS have been added apparently with the sole purpose of converting the bailable offence into a non-bailable offence. Further, the offence under Section 61 of the Punjab Excise Act is not only bailable but also compoundable and all the offences are triable by Magistrate. Further, the owner of the vehicle from which the boxes of liquor were recovered has been granted the concession of anticipatory bail by the learned Additional Sessions Judge, Pathankot as discernible from (Annexure P-2) and the owner is obligated to explain the contents of the material loaded in his vehicle. He further submits that the petitioner is not involved in any other case and surprisingly Section 111 of BNS has been added by the Investigating Officer for the reason best known to him.

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 was apprehended at the spot and 256 boxes of different brands of liquor were recovered from the vehicle.

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.”*

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 23.05.2025. 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-Kamal Pathania 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**

**07.07.2025**

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