



CRM-M-11208-2025 (O&M) and one more case

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

1.

CRM-M-11208-2025 (O&M)

Date of Decision: 04.07.2025

NARESH KUMAR

...PETITIONER

Versus

STATE OF HARYANA

...RESPONDENT

2.

CRM-M-33245-2025 (O&M)

Date of Decision: 04.07.2025

RISHI KAPOOR @ RAHUL

...PETITIONER

Versus

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Aditya Sanghi, Advocate
for the petitioner in **CRM-M-11208-2025**.

Mr. Amit Choudhary, Advocate
for the petitioner in **CRM-M-33245-2025**.

Mr. Vikas Bhardwaj, AAG Haryana.

Harpreet Singh Brar, J. (Oral)

1. Both these petitions are decided vide this common order as both the petitions are arising out of the same FIR. However, the facts are taken from CRM-M-11208-2025.

2. These are the first petitions filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioners in case bearing FIR No. 568 dated 24.12.2024 registered under Sections 29, 20(b)(ii)(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act') at Police Station Sadar Fatehabad, District Fatehabad.

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3. Brief facts of the case are that on 24.12.2024, a police party headed by ASI Sukhdev Singh, on the basis of secret information, apprehended co-accused Rakesh Kumar son of Mahabir Parsad and Devi Lal son of Krishan Kumar while travelling in car make Verna bearing registration No. HR-20AU-1868 and recovery of 25 kgs 60 grams Ganja Patti, contained in total 02 plastic packets, was effected from them, in the presence of Sh. Shamsheer Singh, ATO, Fatehabad. The recovered contraband was taken into police possession in accordance with law. On this, present case was registered. During investigation, co-accused Rakesh Kumar and Devi Lal were arrested, who suffered disclosure statements regarding their involvement in the crime along with petitioner and further got recovered 01 quintal 32 kg Ganja. Section 29 of NDPS Act was added later on.

4. Learned counsel for the petitioner-Naresh Kumar *inter alia* contends that petitioner has been falsely implicated in the present case and the petitioner is neither named in the FIR nor any narcotic substance has been recovered from his conscious possession and the petitioner has been nominated on the basis of disclosure statement suffered by co-accused Rakesh Kumar and Devi Lal, from whose conscious and exclusive possession, Ganja patti was recovered and the petitioner is not involved in any other case. Investigation of the case is complete and petitioner is behind the bars since 11.01.2025.

5. Learned counsel for the petitioner-Rishi Kapoor @ Rahul *inter alia* contends that petitioner has been falsely implicated in the present case and the petitioner is neither named in the FIR nor any narcotic substance has been recovered from his conscious possession and the petitioner has been nominated on the basis of disclosure statement suffered by co-accused Rakesh Kumar during his custodial interrogation, from whose conscious and exclusive posses-

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sion, 25 kgs 60 grams of Ganja patti was recovered, which is marginally higher than the commercial quantity and it is a trite law that any statement recorded by the police under Section 67 of NDPS Act would be hit by Sections 25 and 26 of Indian Evidence Act and the petitioner is not involved in any other case. Investigation of the case is complete and petitioner is behind the bars since 01.05.2025. Further, apart from the confessional statement of co-accused during his custodial interrogation, no other evidence is there to connect the petitioner with the alleged recovery.

6. Learned State counsel produces the custody certificates of the petitioners, which are taken on record and *per contra*, opposes the grant of regular bail to the petitioner-Naresh Kumar on the ground that he is involved in importing Ganja patti from Agartala in his transport vehicle and after procuring his call detail records, it is duly established that petitioner was in touch with co-accused Rakesh Kumar and as such, he is not entitled to any relief by this Court and further registration certificate of the vehicle from which 25 kilograms of Ganja patti was recovered, was produced by the petitioner during his custodial interrogation.

7. Learned State counsel further opposes the prayer for grant of regular bail to the petitioner-Rishi Kapoor @ Rahul on the ground that he is part of the gang who are doing inter state narcotic smuggling. However, he could not controvert the fact that both the petitioners are not involved in any other case.

8. 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 cate-

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gory 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 demo cracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

9. 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 05 months and 23 days; and 02 months 03 days respectively. Investigation of the case 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 as out of total 33 prosecution witnesses, none has been examined till date. No useful purpose shall be served by further detention of the accused/petitioners.

10. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioners-Naresh Kumar and Rishi Kapoor @ Rahul are 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.

11. 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.



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

(HARPREET SINGH BRAR)
JUDGE

04.07.2025
Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No