



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

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**CRM-M-34486-2025 (O&M)
Date of decision: 10.07.2025**

Harbans Singh @ Bant

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rana Harjasdeep Singh, Advocate
for the petitioner.

Mr. Nitesh Sharma, 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.0075 dated 09.04.2025 registered under Sections 15, 27 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') (Section 27-A of the NDPS Act, added later on and Section 27 of the NDPS Act deleted) at Police Station Sadar Jalandhar, District Police Commissionerate.

2. As per the allegations in the FIR, on 09.04.2024, when the police party were present at village Daduwal in connection with patrolling and checking of bad elements, a secret information was received that Harbans Singh @ Bant (petitioner herein) is indulged in the business of selling of Poppy Husk from his house and if raid is conducted, he can be apprehended with poppy husk. On finding the



information credible, a raid was conducted at the house of Harbans Singh @ Bant and 1 Kg and 150 grams of Poppy Husk along with Rs.67,160/- were recovered.

3. Learned counsel for the petitioner *inter alia* contends that as per the case set up by the prosecution, Poppy Husk of 01 Kg and 150 grams has been allegedly recovered from the conscious possession of the petitioner, which is marginally higher than the small quantity and thus the embargo created under Section 37 of the NDPS Act would not apply in the instant case as the alleged recovery effected from the petitioner does not fall under the ambit of commercial quantity. Further without any justifiable reason, the provision of Section 27 of the NDPS Act has been invoked. He further contends that although the petitioner was earlier involved in one more case registered under the NDPS Act, however, he has been acquitted by the learned trial Court in the said case.

4. Learned counsel for the petitioner further submits that there are total 12 prosecution witnesses cited in the list of witnesses, out of which, no PW has been examined till date and the trial is likely to take long time in conclusion.

5. *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 is involved in other cases also, however, he could not



controvert the fact that the petitioner is in custody from the last 02 months and 29 days.

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 02 months and 29 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 12 prosecution witnesses, no PW has been examined so far.

7. 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."



8. Further the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. 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.
9. Further keeping in view the law laid down by the Hon’ble Supreme Court of India in ***“Prabhakar Tewari vs. State of U.P. and another”*** 2020 (1) R.C.R. (Criminal 831) and ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.
10. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Harbans Singh @ Bant 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.
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.

(HARPREET SINGH BRAR)

10.07.2025

JUDGE

yakub

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No