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

CRM-M-35408-2025

Date of decision: 14.07.2025

Mohammad Rehbar alias Mithu

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Akshay Jain, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

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.26 dated 18.01.2025 (Annexure P-1) under Sections 22(c)/27-A of NDPS Act registered at Police Station City Tohana, District Fatehabad.

The FIR was lodged pursuant to receipt of secret information and co-accused, namely, Kulwant Singh was apprehended with 51 bottles of Codeine and thus, the present case.

Learned counsel for the petitioner *inter alia* contends that admittedly, 51 bottles (vials) of codeine were recovered from the exclusive and conscious possession of co-accused, namely, Kulwant Singh, who during his custodial interrogation, made a disclosure statement and on the basis of the same, one Ram Singh @ Rama was nominated as an accused and Section 27-A of the NDPS Act was added. The aforementioned co-accused suffered a disclosure statement during his custodial interrogation and named one, Mohd. Ateev from whom, 50 bottles of cough syrup (codeine) were recovered



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pursuant to his demarcation. During further investigation on 25.01.2025, the petitioner was arrested on the basis of disclosure statement made by co-accused, Mohammad Ateev and nothing has been recovered from the conscious and exclusive possession of the petitioner. Apart from the disclosure statement, there is no other evidence to connect the petitioner with the recovery of the intoxicating products. It is a trite law that disclosure statement of the co-accused during his custodial interrogation is not admissible. The petitioner is behind the bars since 29.01.2025 and he is not involved in any other case.

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 complicity of the petitioner is duly established during investigation and petitioner was the seller of the cough syrup which was recovered from the possession of the co-accused. However, he could not controvert the fact that the petitioner is not involved in any other case and the investigation of the case is complete and final report was presented on 25.06.2025.

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



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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 29.01.2025. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 25.06.2025. The culpability, if any, would be determined at the time of trial. 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-Mohammad Rehbar @ Mithu, 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

14.07.2025*Neha*

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