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

CRM-M-35759-2025

Date of decision: 15.07.2025

Surjit Kumar @ DC

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Ajeet Pal Singh, 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.24 dated 13.03.2025 under Sections 21-C/25 of NDPS Act (Section 29 of NDPS Act added later on) registered at Police Station Ladhuwal, Police Commissionerate Ludhiana (Annexure P-1).

Succinctly, the facts of the case are that on 13.03.2025 one Surjeet Ram @ Seeta was apprehended on the basis of suspicion and 265 grams of *heroin* was recovered from his conscious possession. It is further alleged that during the custodial interrogation, he nominated accused Malik Kapoor @ Mani Kapoor, who was already in custody in a murder trial. On arrest, the said Malik Kapoor nominated one Deepak Kumar @ Bullar being the one who got supplied *heroin* to him. Thereafter, Deepak Kumar @ Bullar nominated the petitioner as an accused from which 30 grams of *heroin* was recovered and thus, the instant case.

Learned counsel for the petitioner *inter alia* contends that



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perusal of the case set up by the prosecution clearly indicates that one Surjeet Ram @ Seeta was apprehended on 13.03.2025 and 265 grams of *heroin* was recovered from his conscious possession. The aforementioned accused during his custodial interrogation made a disclosure statement and named one, Malik Kapoor @ Mani Kapoor as accused. After the arrest of aforementioned Malik Kapoor, he also suffered a disclosure statement and on the basis of the same, one, Deepak Kumar @ Bullar was nominated as an accused who was supplied *heroin* to him. Thereafter, the arrest of Deepak Kumar @ Bullar was effected who during his custodial interrogation named the petitioner. On the basis of disclosure statement made by Deepak Kumar @ Bullar, the petitioner was nominated as an accused and allegedly 30 grams of *heroin* was recovered from him. He further submits that the petitioner has been falsely implicated in the present case. Further, the contraband which was recovered from the possession of the petitioner, does not fall under the ambit of commercial quantity, as such, the embargo under Section 37 of the NDPS Act is not attracted in the present case. The petitioner is having clean antecedents and 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 30 grams of *heroin* was recovered from the petitioner and his complicity has been duly proved, as such, he does not entitle to any relief. However, he could not controvert the fact that the alleged contraband recovered from the petitioner does not fall within the ambit of commercial quantity and the petitioner is not involved in any other case.

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 22.03.2025. 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-Surjit Kumar @ DC, is ordered to be released on regular

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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

15.07.2025*Neha*

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