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

CRM-M-36987-2025

Date of decision: 21.07.2025

Abhishek Sharma alias Abhi

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Suneet Pal Singh Aulakh, 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.04
dated 04.01.2025 under Section 22/29 of the NDPS Act registered at Police
Station Special Task Force, District STF Wing.

As per the prosecution version, the instant FIR was registered on
the basis of secret information and in pursuance thereof, 1188 strips each
containing 10 tablets and total 11880 tablets of Alprazolam tablets having batch
No.ENT 36, manufacturing date: 06/2024, expiry date: 05/2026 were recovered
from the conscious possession of Abhishek Sharma @ Abhi (the petitioner
herein) and Pawan Kumar without any licence or permit, on 03.01.2025 in the
area of Dana Mandi T-Point, Arora Palace, Ludhiana, when they were travelling
on Splendor motorcycle bearing registration No.PB-10-FD-2896. During
investigation, record regarding manufacturing firm M/s Euphoria India
Pharmaceuticals was collected, from which, it was found that the recovered
intoxicating tablets were sold to M/s Gauri Ganesh Pharma, 138/81, Dhakna
Purwa Transport Nagar, Kanpur (UP). Regarding the record obtained from the



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firm of co-accused, Ompal Singh, Drug Inspector, Kanpur Nagar, U.P. had also given report that no such firm by the name of M/s Gauri Ganesh Pharma existed nor any Drug Licences No.UP7820B003523 and UP7821B003524 were ever issued to any firm. The accused also could not produce any document regarding verification of firm and above-said drug licences by the owners/partners of firm M/s Euphoria India Pharmaceuticals.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and there is no evidence on record to prove the conscious and exclusive possession of the petitioner over the alleged contraband. Admittedly, as per the case set up by the prosecution, the petitioner was driving the vehicle and recovery of the intoxicating tablets have been made from the bag being carried by co-accused, namely, Pawan Kumar. The petitioner is not involved in any other case and is having clean antecedents. The drill of the procedure safeguards provided under the NDPS Act has not been followed by the Investigating Officer and the entire case of the prosecution hinges upon the testimony of the official witnesses.

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 has played an active role and his complicity is duly established. However, he could not controvert the fact that 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 08.01.2025. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as out of 31 prosecution witnesses, none has been examined so far. 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-Abhishek Sharma @ Abhi, 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

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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

21.07.2025*Neha*

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