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

CRM-M-37027-2025

Date of decision: 21.07.2025

Sanjeev Gupta

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. D.S. Matya, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, 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.310 dated 08.11.2024 under Sections 22(c)/27(a)/29 of the NDPS Act and Sections 238-B/336(3)/340(2) of BNS registered at Police Station Sector 6, Bahadurgarh, District Jhajjar.

The FIR in present case was registered on the complaint of Sub Inspector Kuldeep Singh. A police party headed by Sub Inspector Kuldeep received a secret information that Sahil Rathi and Sumit @ Chintu could be caught red handed with contraband injections. Accordingly, the police apprehended both the accused Sahil Rathi and Sumit @ Chintu, who were sitting on TVS Jupiter Scooty bearing registration no. HR-13S-9170. After making compliance of under Section 50 NDPS Act, they were searched. On the search of TVS Scooty, 3 strip of buprenorphine injections IP (2 ml. Each injections) marka IP LEEGESIC (five injections in each strip), containing total 30 ml/gm were recovered. On the disclosure statement of Sahil Rathi, the police reached at Firojabad, U.P. On the demarcation of accused Sahil Rathi,

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the accused Dinesh Kumar was apprehended when he was sitting on a medical store with name and style of Nikhil Medical Store. The said medical store was also got searched with the help of Sh. Kapil Sharma, Drugs Inspectors of District Firojabad, U.P. In the search of said medical store, 5 injections of Tramadol were recovered without any legitimate record. Thereafter, accused Dinesh Kumar was apprehended and taken on police remand. On his disclosure statement, one another accused namely Gaurav Gupta was apprehended from Agra (UP) and his godown situated in a village of District Agra was got searched. In the search of said godown, a huge quantity of buprenorphine injections marka REXOGESIC batch no. ABM 24003 (1 box having 60 small boxes) containing total 1500 injections of 2 ml each, and 36 boxes of Avil vile and 180 empty boxes of IP LEEGESIC buprenorphine injections were recovered. The 1500 injections recovered from the godown of Gaurav Gupta were taken in possession by police and whereas 36 boxes of Avil vile were taken in possession by Drug Inspector Kapil Sharma. Further on the disclosure statement and demarcation of Gaurav Gupta, one Sanjeev Gupta (petitioner) from Aligarh was apprehended. Thereafter, the police on the disclosure statement and demarcation of accused Sanjeev Gupta arrested Deepak Pandey from Muradabad. On the disclosure statement of co-accused Deepak Pandey, the police came to the conclusion that Deepak Pandey created a forged and bogus firm with the name and style of Radha Medical Agency and used to sell drugs to Sanjeev Gupta (the petitioner) and Gaurav Gupta while creating forged bills in the name of a firm with name and style of Prayag Pharma owned by one Sachin Sexana.

Learned counsel for the petitioner *inter alia* contends that the



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petitioner has been nominated as an accused on the basis of disclosure statement made by co-accused, namely, Gaurav Gupta during his custodial interrogation, which has no evidentiary value in the eyes of law as the statements recorded by the police under Section 67 of NDPS Act would be hit by Sections 26 and 27 of Indian Evidence Act. Admittedly, the contraband was allegedly recovered from the conscious possession of co-accused. Further, there is no cogent material available on record to establish the conscious possession of the petitioner over the alleged contraband. Investigation of the case is complete and petitioner is having clean antecedents and is not involved in any other case.

Learned State counsel has filed the custody certificate of the petitioner and *per contra* opposes the prayer for grant of regular bail to the petitioner on the ground that complicity of the petitioner is duly established as he is supplier of the contraband. As such, he does not deserve any leniency by this Court. However, he could not controvert the fact that petitioner is not involved in any other case and he has undergone more than 09 months & 07 days of custody and till date out of total 51 PWs, none has been examined.

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



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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 for the last 09 months and 07 days and trial of the case has not made much progress as out of 51 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-Sanjeev Gupta, 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

21.07.2025*Neha*

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