



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

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**CRM-M-39613-2025 (O&M)
Date of decision: 30.07.2025**

Krishan Kumar Phageria

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.S. Sahu, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

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.209 dated 20.08.2023 under Sections 15C/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station Nathusari Chopta, District Sirsa.

2. The FIR was lodged pursuant to receipt of a secret information to the effect that four persons namely Krishan Fagedia, Jaiveer @ Jaibir, Dara Singh Machra and Surender @ Dholu had concealed 400 kilograms of 'poppy husk' in rooms constructed behind the Government School of Village Rupana. Pursuant to receipt of said information, a raid was conducted at the disclosed place i.e. behind Government School, Village Rupana and 400 kilograms of 'poppy husk'



was recovered. However, none of the accused was arrested from the spot.

3. Learned counsel for the petitioner *inter alia* contends that identically situated co-accused, namely, Sushil Kumar, Rajesh Kumar @ Dara Singh and Salinder @ Surender Kumar @ Dholu, have been granted the concession of regular bail by this Court vide order dated 14.07.2025 passed in CRM-M-16465-2025, titled as Sushil Kumar vs State of Haryana and order dated 05.09.2024 passed in CRM-M-42679-2024 titled as 'Rajesh Kumar @ Dara Singh Vs. State of Haryana' and order dated 13.12.2024 passed in CRM-M-61845-2024 titled as 'Salinder @ Surender Kumar @ Dholu Vs. State of Haryana', respectively. He further submits that even another co-accused of the petitioner namely Jaibir Singh @ Jaiveer has also been granted the concession of regular bail by this Court vide order dated 21.07.2025 passed in CRM-M-527-2025. He further contends that there is no evidence available on record to connect the petitioner with the alleged recovery of poppy husk. There is no legal evidence to establish the exclusive and conscious possession of the petitioner over the alleged contraband and moreover, the petitioner has been declared as accused after 13 months of the alleged recovery. Except the secret information, there is no other evidence to remotely suggest the complicity of the petitioner.

4. Learned counsel for the petitioner further submits that the petitioner is behind the bars since 26.10.2024 and there are total 34



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 complicity of the petitioner is duly established during the investigation and further keeping in view his criminal antecedents, he is not entitled to any relief. He further submits that the petitioner is a habitual offender and is involved in other cases also. However, he could not controvert the fact that co-accused of the petitioner have already been granted the concession of regular bail by this Court.

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 09 months and 01 day. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges are yet to be framed and there are total 34 prosecution witnesses cited in the list of witnesses and the trial of the case has not made much progress.

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 of the above discussions, the present petition is allowed. Accordingly, without commenting upon the merits of the case,



the petitioner namely Krishan Kumar Phageria 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)
JUDGE

30.07.2025
yakub

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