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

CRM-M-40994-2025

Date of decision: 05.08.2025

Hanif

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Rakesh Kumar Lathwal, Advocate
for the petitioner.

Mr. Satbir Goripuria, DAG, 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.99 dated 05.04.2025 under Sections 22(C), 29 (added later on) of NDPS Act registered at Police Station Rai, District Sonapat (Haryana).

Compactly, the facts of the case are that on 05.04.2025 on the basis of secret information, Sonu and Amit who indulged in selling/trading of prohibited medicines were apprehended with NRX Tramadol, Hydrochloride, Dicyclomine, Hydrochloride and ACETAMINOPHEN CAPSULES SEMPLEX CAPSULES MFG SSYRYPS etc and as such, 432 capsules (total 253.8 grams) and they have failed to produce any valid licence and thus, the instant case.

Learned counsel for the petitioner *inter alia* contends that as per the case set up by the prosecution, nothing has been recovered from the conscious possession of the petitioner. Admittedly, the alleged contraband was recovered from co-accused, namely, Amit and Sonu and the petitioner has been nominated as an accused in the present case only on the basis of disclosure statement made by co-accused while in police custody which has no evidentiary



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value in the eyes of law as the same is hit by Sections 25 and 26 of the Indian Evidence Act. The petitioner is not involved in any other case. Investigation of the case is complete and till date out of total 19 prosecution witnesses, none has been examined. Apart from the disclosure statement, there is no evidence to connect the petitioner with the alleged contraband.

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 complicity of the petitioner is duly proved during investigation and thus, he is not entitled to any relief. 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 08.04.2025. 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 19 prosecution witnesses, none has been

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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-Hanif, 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

05.08.2025*Neha*

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