



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.53905 of 2024
Date of decision: 23.01.2025

Manjeet Singh
.....Petitioner
Versus
State of Haryana
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ajaypal Singh Sandhu, 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.186 dated 20.07.2024 registered under Sections 21-B, 27-A and 31 (added later on) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Sadar Rattia, District Fatehabad.
2. As per the prosecution case, on 19.07.2024, a police party headed by ASI Ram Avtar, on the basis of suspicion, apprehended co-accused Baljinder Singh @ Kala and recovery of 09 grams of Heroin was effected from him. The recovered contraband was taken into police possession in accordance with law. On this, the impugned FIR was registered and during the investigation, the co-accused Baljinder Singh @ Kala was arrested, who suffered disclosure statement regarding his involvement in the crime as well as purchasing the recovered

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contraband from the present petitioner and accordingly, Section 27-A of the NDPS Act was added.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated and admittedly, the alleged contraband falling within the ambit of non-commercial quantity, was recovered from the co-accused of the petitioner and the petitioner has been nominated as an accused only on the basis of the disclosure statement made by co-accused, while in police custody and such statement has no evidentiary value in the eyes of law as the same is hit by Section 25 of the Indian Evidence Act. He further submits that the petitioner was earlier falsely implicated in the NDPS Act and the last case was registered way-back in the year 2015.

4. Learned counsel for the petitioner further submits that the petitioner is in custody since 04.08.2024 and there are total 18 prosecution witnesses cited in the list of witnesses, out of which, none has been examined till date and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel opposes the prayer on the ground that although 09 gms of Heroin was recovered from the co-accused of the petitioner namely Baljinder Singh Kala, however, he has named the petitioner as the supplier of the contraband and he is a habitual offender, however, he could not controvert the fact that the petitioner was convicted for a period of 01 year under the NDPS Act and he is on bail in all other cases.

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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 05 months and 18 days. 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 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

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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 the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Manjeet Singh 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.

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

23.01.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No