



CRM-M-60419-2024 (O&M) 1
109+211 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-18639-2025 in/and
CRM-M-60419-2024 (O&M)
Date of Decision: 13.05.2025

MALKIT SINGH ALIAS BOBBY

...PETITIONER

Versus

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Akashdeep Singh, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

Harpreet Singh Brar, J. (Oral)

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This is an application filed under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 seeking placing on record the disclosure statement of co-accused Amarjit @ Kala and the disclosure statement of petitioner as Annexures P-5 and P-6 and for exemption from filing certified and typed copy of the same.

Allowed as prayed for.

Annexures P-5 and P-6 are taken on record, subject to all just exceptions.

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1. This is the first petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case bearing FIR No. 140 dated 30.07.2024 registered under Sections 18(b), 18(c) and 27A of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act') at Police Station Titram, District Kaithal.

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2. Briefly stated, the case of the prosecution is that on 30.07.2024, ASI Pardeep Kumar along with other police officials was on patrolling duty for detection of crime, secret information was received that accused Amarjeet @ Kalu son of Pala Singh, resident of Narenderpura, District Mansa and Babbu son of Buta Ram, resident of Sunam (Punjab) are indulged in transporting narcotic substance i.e. opium in their truck bearing registration No.PB-11BR-5089. On this information required notice under Section 42 of NDPS Act was prepared. Raiding party was constituted. During checking truck bearing registration No.PB-11BR-5089 was got stopped. On asking driver of the truck disclosed his name as Amarjeet @ Kalu and the conductor disclosed his name as Babbu. Notice under Section 50 of NDPS Act was served upon them. On personal search of Babbu 80 grams opium was found from the pocket of his lower which was taken into police possession. On checking of truck, 4 Kilo 40 grams opium was found from air cleaner near conductor window which was also taken into police possession. Accused Amarjeet @ Kalu has committed offence under Section 18(b) by keeping 4 Kilo 40 grams opium in his possession and accused Babbu has committed offence under Section 18(B) by keeping 80 grams opium in his possession, without any licence or permit. Ruqqa was sent to police station. On this basis, present FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that petitioner was neither named in the FIR nor contraband was recovered from his conscious possession. The petitioner has been nominated in this case only on the basis of disclosure statement made by co-accused during his custodial interrogation, which has no evidentiary value in the eyes of law as the statement 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 is recovered from the



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co-accused Amarjit @ Kalu and petitioner is behind the bars since 29.08.2024 and till date not even a single prosecution witness has been examined. Further, co-accused Abhay Raj has been granted the concession of anticipatory bail by a Co-ordinate Bench of this Court vide order dated 16.12.2024 passed in CRM-M-54847-2024.

4. Learned State counsel produces the custody certificate of the petitioner, which is taken on record and *per contra* opposes the grant of regular bail to the petitioner on the ground that petitioner is owner of the truck which was used for drug trafficking and he is also involved in 02 more cases under the NDPS Act. Further, the petitioner has transferred an amount of Rs. 5,75,000/- in the bank account of co-accused Abhay Raj. As Such, he is not entitled to grant of regular bail by this Court.

5. 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 08 months and 07 days as on 12.05.2025. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case will take considerable long time to conclude as not even a single prosecution witness has been examined till date. 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.

6. 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 prison-



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ers, 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.”

7. In view of the ratio of law laid down by Hon’ble Supreme Court in **Prabhakar Tiwari Vs. State of UP and Anr.** 2020(1) RCR (Criminal) 831 and **Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others** 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

8. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner-Malkit Singh @ Bobby 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.

9. 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

13.05.2025

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No