



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
220

CRM-M-62394-2024 (O&M)
Date of decision: 05.05.2025

Hardeep Singh @ Deepu

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ruhani Chadha, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this 2nd petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.28 dated 23.02.2024 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') (Section 21(c) of the NDPS Act added later on) and Section 25 of the Arms Act, 1959 at Police Station Shahkot, District Jalandhar.

1.1. The 1st petition filed by the petitioner seeking regular bail was dismissed as withdrawn on 27.08.2024 and this 2nd petition has been filed due to changed circumstances as the petitioner has suffered the incarceration of more than 14 months and out of 19 PWs, not even a single prosecution witness has been examined till date.

2. Brief facts of the case are that on 23.02.2024, the police party headed by ASI Buta Ram, on the basis of a secret information,



apprehended accused Akashdeep alias Musa, Sukhpreet Singh alias Sukh and Hardeep Singh alias Deepu. The search of kit bag carried by Sukhpreet Singh led to the recovery of 302 grams of Heroin and one country-made pistol of .32 bore along with 02 live cartridges of .32 bore. Thereafter, the search of Akashdeep alias Musa led to the recovery of one countrymade pistol of 32 bore along with two live cartridges of 32 bore. The search of accused Hardeep Singh alias Deepu (petitioner herein) led to the recovery of 01 country-made pistol of .32 bore along with 02 live cartridges of .32 bore.

3. Learned counsel for the petitioner, *inter alia*, contends that admittedly the alleged contraband was recovered from the exclusive and conscious possession of co-accused Sukhpreet Singh. The recovery of one country-made pistol .32 bore is alleged to have been effected from the petitioner whereas recovery of two country-made pistols have been effected from co-accused Baljinder Singh. Learned counsel for the petitioner has relied upon the order dated 22.08.2024 (Annexure P-2), passed by learned Judge, Special Court, Jalandhar granting regular bail to similarly situated co-accused Baljinder Singh @ Jashan. The case of the petitioner is identical and at par with co-accused Baljinder Singh, as such, on the ground of parity, the petitioner is also entitled for bail. Although the petitioner is involved in other cases also but he has either acquitted or has undergone his sentences in all those cases.

4. Learned counsel for the petitioner further submits that there are total 19 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 and status report by way of affidavit of Onkar Singh Brar, Deputy Superintendent of Police, Sub-Division Shahkot, Jalandhar (Rural), 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 petitioner was part of a gang which was intercepted on the allegations of drug trafficking and huge quantity of 302 gms. of Heroin was recovered along with weapons from the said members of the gang. He further opposes the prayer for bail on the ground that the petitioner is involved in 09 more cases, including one FIR registered under the NDPS Act, however, he could not controvert the fact that the petitioner similarly situated co-accused has been granted the concession of regular bail by learned trial Court and out of 19 PWs, no PW has been examined till date.

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 01 year, 02 months and 05 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress. Out of 19 prosecution witnesses, no PW has been examined so far.



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

05.05.2025
yakub

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