



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

228

**CRM-M-65305-2024 (O&M)
Date of decision: 22.04.2025**

Pale Ram @ Pale

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashish Kumar, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

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.365 dated 23.12.2022 registered under Sections 20(b)(ii)(c) of the NDPS Act at Police Station Sadar Dadri, District Charkhi Dadri.

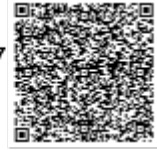
1.1 The 1st petition filed by the petitioner seeking regular bail was dismissed as withdrawn on 04.07.2024. Learned counsel for the petitioner submits that this 2nd petition has been filed on account of change in circumstances as the co-accused namely Ashok Mittal has been granted the concession of regular bail by learned Sessions Judge, Charkhi Dadri vide order dated 17.08.2024 (Annexure P-4).

2. The brief facts of the case are that on 22.12.2022, while patrolling, ASI Raj Kapoor and his team received an information from a reliable informer that Deepak, son of Karan Singh from Rawal Dhi, was



involved in selling charas and had hidden 10 kgs of the same in his house. After obtaining permission from the concerned officers and contacting Duty Magistrate Arun Kumar, a search operation was conducted. The Duty Magistrate and the police team went to Deepak's house, where he was given a notice under Section 50 of the NDPS Act. Deepak agreed to have his house searched in the presence of the Magistrate. Upon searching his house, 9.812 kgs of charas was recovered from a yellow pithoo bag hidden in the bed. Thereafter, the impugned FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that admittedly nothing has been recovered from the conscious possession of the petitioner. Further the petitioner is not named in the FIR and the alleged contraband was recovered from the exclusive and conscious possession of the co-accused of the petitioner namely Deepak. Further the petitioner has been nominated as an accused on the basis of the disclosure statement made by co-accused during his custodial interrogation and such statement recorded by a police officer under Section 67 of the NDPS Act has no evidentiary value in the eyes of law as the same is hit by Sections 25 and 26 of the Evidence Act. Apart from the disclosure statement made by co-accused, there is no other legally evidence against the petitioner and the petitioner is behind the bars for the last more than 01 year and 03 months.



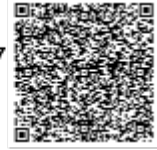
4. Learned counsel for the petitioner further submits that there are total 22 prosecution witnesses cited in the list of witnesses, out of which, 06 PWs have been examined till date and the trial is likely to take long time in conclusion.

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 petitioner is a habitual offender and is involved in other cases also, however, he could not controvert the fact that the petitioner has been nominated in the case on the basis of disclosure statement made by co-accused.

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, 03 months and 08 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 22 prosecution witnesses, 06 PWs have 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.

8.1. 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.

9. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Pale Ram @ Pale is ordered to be released on



regular bail during pendency of the trial, on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

10. 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

22.04.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No