



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
205

CRM-M-33460-2026 (O&M)
Date of decision: 24.06.2026

Anil Kumar @ Anil @ Kamal

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Davinder Pal Soni Jaura, Advocate
for the petitioner.

Mr. Rajiv Malhotra, DAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 483 of BNSS, 2023 (corresponding to Section 439 of Cr.P.C.) is for grant of regular bail to the petitioner in FIR No.102 dated 21.02.2026 registered under Sections 21-B/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station City Sirsa, District Sirsa.

2. The FIR (supra) was registered on the allegations that the petitioner along with co-accused had purchased the recovered contraband i.e. 105.64 grams of heroin, for a consideration of Rs.1.60 lacs from another co-accused namely Vikas. On 21.02.2026, the petitioner along with co-accused were going to sell the same, however, they were apprehended by the police. Thereafter, the petitioner and the

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co-accused got recorded their disclosure statement and revealed the source of the said contraband.

3. Learned counsel for the petitioner *inter alia* contends that the recovery of 105.64 grams of heroin was effected from the visor of the motorcycle which was driven by co-accused whereas the petitioner was only a pillion rider. Further, it is a matter of trial as to whether the petitioner can be held liable for the conscious possession of the recovered contraband or not. Further, the alleged recovery of 105.64 grams of heroin falls within the ambit of non-commercial quantity and as such, the embargo created under Section 37 of the NDPS Act would not apply in the instant case. Learned counsel for the petitioner further submits that although the petitioner is involved in more case registered under the NDPS Act, however, he has already been acquitted by the learned trial Court vide judgment dated 03.01.2020.

4. Learned counsel for the petitioner further submits that the petitioner is in custody for the last more than 03 months. Further, the final report has already been presented before the jurisdictional Court and the conclusion of the trial is likely to take long time.

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 was apprehended at the spot and recovery was effected from the joint possession of the petitioner and the co-accused and as such, the complicity of the petitioner is duly established, however, he

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could not controvert the fact that the contraband recovered in the present case is of non-commercial quantity and therefore, the embargo created under Section 37 of the NDPS Act would not be applicable.

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 more than 03 months. Investigation is complete. The final report under Section 173 Cr.P.C. has already been presented before the concerned Court and the conclusion of the trial is likely to take long time.

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."

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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. In view of the discussions made hereinabove, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Anil Kumar @ Anil @ Kamal, is ordered to be released on regular bail during pendency of the trial, on furnishing bail bonds/surety bonds to the satisfaction of concerned 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

24.06.2026
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No