



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

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Date of decision: 31.07.2025

1. CRM-M-39744-2025

Mani @ Malik Kapoor

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M-39923-2025 (O&M)

Deepak Kumar @ Buladh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amar Ashok Pathak, Advocate
for the petitioner in CRM-M-39744-2025.

Mr. Rythem Bajaj, Advocate
for the petitioner in CRM-M-39923-2025.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Vide this common order, I intend to dispose of CRM-M Nos.39744 and 39923 of 2025, as common questions of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CRM-M-39744-2025.

2. Prayer in both these petitions filed under Section 483 of BNSS, 2023 is for grant of regular bail to the petitioner(s) namely Mani @ Malik Kapoor and Deepak Kumar @ Buladh in FIR No.24 dated

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13.03.2025 registered under Sections 21C, 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') (Section 29 of the NDPS Act, added later on) at Police Station Ladhawal, District Ludhiana.

3. As per the prosecution version, Surjeet Ram @ Seeta was apprehended on 13.03.2025 with 265 grams of heroin in his conscious possession. During interrogation, he disclosed that while in custody for a murder trial at Goindwal Jail, he met Malkit Kapoor @ Mani, also in custody for murder. After being released on parole, Surjeet Ram received a call from Malkit Kapoor regarding the supply of heroin and subsequently supplied it at his instance. Based on his statement, Malkit Kapoor (petitioner herein) was nominated as an accused and further named Deepak Kumar @ Buladh (petitioner herein) as the source of the heroin. During the investigation, Surjit Kumar @ D.C. was arrested with 30 grams of heroin and confessed that on 01.03.2025, Deepak Kumar @ Buladh and Malkit Kapoor @ Mani Kapoor who were already in Goindwal Jail, had sent one Surjit Kumar @ Seeta for supplying heroin to him, which he sold, except for 30 grams recovered on 21.03.2025. Hence, the impugned FIR was registered.

4. Learned counsel for the petitioner(s) *inter alia* contends that both the petitioners have been falsely implicated in the FIR (supra). Admittedly, the alleged contraband was recovered from the conscious possession of co-accused Surjit Ram @ Seeta, who was apprehended on 13.03.2025 along with 265 gms of heroin. The petitioners have been

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nominated as an accused in the FIR (supra) on the basis of the disclosure statement made by aforementioned co-accused, during his custodial interrogation, which has no evidentiary value in the eyes of law as the same is hit by Sections 25 and 26 of the Evidence Act. Thereafter, one Surjit Kumar @ D.C. was arrested and 30 gms of heroin was recovered from his possession. Admittedly, nothing has been recovered from the present petitioners and there is no other evidence except the disclosure statement to connect both the petitioners with the alleged contraband in any manner. Learned counsel for the petitioner(s) further submits that both the petitioners are not involved in any other case and even the charges have not been framed against the petitioner(s).

5. *Per contra*, learned State counsel opposes the prayer made by learned counsel for the petitioner(s) on the ground that the complicity of both the petitioners is duly established and the contraband recovered in the present case falls under the ambit of commercial quantity as such the petitioners are not entitled to any relief in view of the embargo created under Section 37 of the NDPS Act. Further the petitioner Mani @ Malik Kapoor is involved in one more case, however, he could not controvert the fact that the petitioner(s) have been nominated in the FIR (supra) 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(s) are

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behind the bars from 12.10.2024. 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(s)-accused. Keeping the petitioner(s) in further detention without the prospect of the trial being concluded in the

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near future, would be violative of their rights under Article 21 of the Constitution of India.

9. In view of the discussion made hereinabove, the present petitions are allowed. Accordingly, without commenting upon the merits of the case, the petitioner(s) namely Mani @ Malik Kapoor and Deepak Kumar @ Buladh are ordered to be released on regular bail during pendency of the trial, on their 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.

11. A photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

31.07.2025
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No