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

Date of decision: 22.01.2025

1. CRM-M No.50279 of 2024

Satinder Kaur

....Petitioner

Versus

Union of India through Narcotics Control Bureau

....Respondent

2. CRM-M No.47415 of 2024

Baneet Singh

....Petitioner

Versus

Union of India through Junior Intelligence Officer

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amit Kumar Saini, Advocate
for the petitioner in CRM-M-50279-2024.

Mr. Gurnoor Singh Sethi, Advocate
for the petitioner in CRM-M-47415-2024.

Mr. Sourabh Goel, Advocate (Sr. Standing Counsel)
with Ms. Samridhi Jain, Advocate
and Mr. Akash Khurana, Advocate
for the respondent – NCB.

HARPREET SINGH BRAR J. (Oral)

1. This order shall dispose of CRM-M Nos.50279 and 47415 of 2024, as common questions of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CRM-M No.50279 of 2024.

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2. Prayer in both these petitions filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner(s) namely Satinder Kaur and Baneet Singh, in case NCB Crime No.14/2024 dated 01.07.2024, registered under Sections 8, 18, 23 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Narcotics Control Bureau, Chandigarh.

3. The brief facts of the case are that on 01.07.2024 recovery of 0.889 kgs of Opium has been effected in the present case concealed in a parcel having AWB No.9769110831 in some clothes and a box of artificial jewellery in the form of six packets which was destined to Canada. The accused was allegedly identified by worker of the shop from where the parcel was booked for courier to send it to Canada.

4. Learned counsel for the petitioner(s) *inter alia* contends that the petitioner – Satinder Kaur is a household lady having clean antecedents and further as per the case set up by the prosecution, nothing has been recovered from the conscious possession of the petitioner and the alleged recovery of contraband does not fall within the ambit of non-commercial quantity and as such, the embargo under Section 37 of the NDPS Act would not be attracted. Learned counsel for the petitioner(s) submits that the petitioner – Satinder Kaur is suffering from diffuse disc bulge at L4-L5 level as discernible from her MRI report (Annexure P-2) dated 09.04.2024. They further submits that when the raid was conducted by the team of respondent, the KYC was found to be in the name of Jagdeep Singh only and it contained the

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Aadhar Card and PAN Card of Jagdeep Singh, which proves that the consigner of the packet was Jagdeep Singh and it was to be received by Rubal Kaur in Canada. Learned counsel for the petitioner(s) also contends that the mobile phone number of the consigner and consignee were mentioned on the parcel and as such, there is no material available on record to connect the present petitioner(s) with the alleged recovery.

5. Learned counsel for the petitioner(s) further submits that both the petitioners are not involved in any other case and are having clean antecedents and there are total 13 prosecution witnesses cited in the list of witnesses, out of which, none has been examined till date as charges are yet to be framed and the trial is likely to take long time in conclusion.

6. *Per contra*, learned counsel for the respondent – NCB has filed custody certificates of both the petitioners today in the Court which are taken on record and he opposes the prayer made by learned counsel for the petitioner(s) on the ground that there are serious and specific allegations levelled against both the petitioners and the petitioners are found to be complicit in transportation of Opium to outside India through courier by concealing it, which has international ramifications and the CCTV footage of the courier company was obtained during the course of investigation, in which the petitioner – Satinder Kaur was found present in courier company and the statement of one Neha Rani, the employee of the courier company was also recorded to prove the complicity of the petitioners. He further submits

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that there are 157 calls between both the petitioners, and there are other calls that took place between the petitioner – Baneet Singh and the son of petitioner – Satinder Kaur, however, he could not controvert the fact that both the petitioners are having clean antecedents and they are not involved in any other case.

7. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner(s) are behind the bars from the last about 06 months. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and there are total 13 prosecution witnesses cited in the list of witnesses. Charges are yet to be framed and trial of the case has not made much progress.

8. 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

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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.”

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

10. In view the discussion above, both the present petition are allowed. Accordingly, without commenting upon the merits of the case, the petitioner(s) namely Satinder Kaur and Baneet Singh, 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.

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

22.01.2025

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No