

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

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**CRM-M-18868-2025 (O&M)
Date of decision: 21.04.2025**

Tirath Nath

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

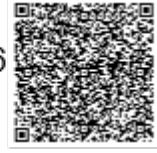
Present: Mr. Aditya Anand, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.27 dated 12.02.2022 registered under Sections 18 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Makhu, District Ferozepur.

2. As per the prosecution case, on routine night patrolling duty at about 01:30 AM near Kassuwala turn, the police party headed by SI Narinderpal Singh apprehended a suspicious young man, who was later on identified as Gurjit Singh @ Jita, who attempted to flee upon seeing the police vehicle. After being informed of his rights under Section 50 of the NDPS Act, Gurjit Singh opted to be searched in the presence of a Gazetted Officer. DSP Sandip Singh Mand arrived at the spot and conducted the search, during which a white polythene bag containing 06 kgs of Opium was recovered from Gurjit Singh's

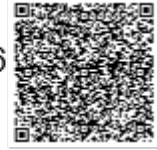


backpack. The contraband was sealed, sample seals were prepared, and a recovery memo was drawn in the presence of witnesses. Gurjit Singh was found in illegal possession of Opium and was booked under Section 18 of the NDPS Act. Thereafter, the impugned FIR was registered and on the basis of the disclosure statement suffered by Gurjit Singh, the petitioner Tirath Nath, has been nominated in the case.

3. Learned counsel for the petitioner *inter alia* contends that admittedly nothing has been recovered from the conscious and exclusive possession of the present petitioner. The petitioner has been falsely implicated in the case only on account of the fact that Opium was recovered from his real brother. He further submits that the petitioner has earlier filed a petition before this Court i.e. CRM-M No.11791 of 2022, questioning the veracity of the investigation and claiming false implication of his brother and in order to teach a lesson to the petitioner, he has been nominated in the case as an accused. The petitioner is not involved in any other case registered under the NDPS Act. Further the disclosure statement made by the co-accused while in police custody has no evidentiary value in the eyes of law and the same is hit by Section 25 of the Evidence Act.

4. Learned counsel for the petitioner further submits that there are total 16 prosecution witnesses cited in the list of witnesses, out of which, only 01 PW has been examined till date and 04 PWs have been given up 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

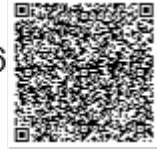


the prayer made by learned counsel for the petitioner on the ground that huge quantity of contraband was recovered from the conscious possession of the co-accused of the petitioner, which falls within the ambit of commercial quantity and as such, the petitioner is not entitled for any relief as his complicity in drug trafficking is duly proved during the course of investigation, however, he could not controvert the fact that the petitioner is not involved in any other case registered under the NDPS Act.

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 06 months and 10 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 16 prosecution witnesses, only 01 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. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Tirath Nath 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

21.04.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No