

**CRM-M-2420-2025 (O&M)****1****221 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRM-M-2420-2025 (O&M)
Date of Decision: 30.04.2025****JASBIR SINGH @ KHELA****...PETITIONER****Versus****STATE OF PUNJAB****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Rajiv Kumar Saini, Advocate and
Mr. Pavitar Singh, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

*********Harpreet Singh Brar, J. (Oral)**

1. This is the first petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case bearing FIR No. 09 dated 03.02.2024 registered under Sections 22-C, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station Sarai Amant Khan, District Tarn Taran.

2. As per the alleged story of the investigating agency on 03.02.2024, SI/SHO Baljinder Singh along with other police party were on patrolling in connection with search of suspected persons and going from Sarai Amant Khan, Gehri, Burj etc. and when police party reached Adda Sarai Amant Khan, then HC Surjit Singh, CT Karamjit Singh were present on the private vehicle and they were also joined in the police party and from there, police party proceeded in two vehicles towards village Burj and they reached at T point village Chahal and at that time from the side of village Burj, two youngster were seen coming on one motorcycle no. PB-46-7994 mark Bajaj CT100 colour black who on seeing the police party become perplexed and driver of the motorcycle tried to



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take U-turn but due to heavy weight, both the youngsters along with motorcycle fell on the road side. Driver of the motorcycle took out one heavy plastic envelope from right side pocket of his lower and threw the same on the ground and said SI/SHO apprehended both of them with the help of police officials and inquired their names and addresses. Thereafter, on the basis of suspicion, search of petitioner along with co-accused and their belongings was conducted. Thereafter, upon search of the plastic envelope thrown by them, one packet packed in yellow coloured tape and with lock affixed with copper wire was recovered. Upon asking about the heavy packet envelope, both persons said that the packet contains intoxicant ice and after opening the same, it found to be intoxicant ice. On weighing the same it was found to be 481.50 grams intoxicant ice including plastic envelope and on weighing the packing material the same came to be 31.50 grams. The same was taken into possession. Thereafter, the impugned FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that nothing has been recovered from the conscious possession of the petitioner as admittedly, the petitioner was the pillion rider and co-accused Palwinder Singh @ Vicky was driving the motor cycle and the contraband was thrown away by the co-accused, after sighting the police party. Learned counsel further relies upon the judgment passed by a Co-ordinate Bench of this Court in CRM-M-984-2021 titled as ***Sukhdev Singh @ Sukh Vs. State of Punjab*** decided on 19.04.2022 and submitted that in similar circumstances, the accused, who was the pillion rider, was granted the concession of regular bail and the petitioner is not involved in any other case and he is in judicial custody from 03.02.2024.

4. Learned State counsel produces the custody certificate of the petitioner, which is taken on record and *per contra*, opposes the prayer made by



the petitioner on the ground that complicity of the petitioner would be gone into by the learned trial Court on the basis of evidence adduced and at this stage, it cannot be concluded that petitioner is not involved in this case and huge quantity of contraband has been recovered in the present case. However, he could not controvert the fact that out of total 13 Pws, none has been examined till date.

5. 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 02 months and 24 days as on 30.04.2025 and not even a single prosecution witness has been examined till date. Thus, conclusion of trial will take considerable long time.

6. A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. 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."

7. 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



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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. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner- Jasbir Singh @ Khela is ordered to be released on regular bail during pendency of the trial, on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

9. 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

30.04.2025

Ajay Goswami

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No