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persons as Sections 25 and 29 of NDPS Act were added in the present case. Thereafter, the impugned FIR was registered.

Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case. Further, similarly situated co-accused, namely, Harpreet Singh, has been granted the concession of regular bail by this Court vide order dated 30.04.2025 passed in CRM-M-21778-2025 titled as 'Harpreet Singh Vs. State of Punjab' (Annexure P-4). He further submits that admittedly 200 kilograms of poppy husk was recovered from the conscious and exclusive possession of the co-accused, namely, Raghubir Singh @ Lucky and Palwinder Singh @ Minta and both of them have been released on bail under the provisions of Section 167(2) of Cr.P.C. and petitioner has been nominated in the present case only on the basis of disclosure statement made by co-accused, namely, Raghubir Singh, 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 Indian Evidence Act. Apart from the disclosure statement of co-accused, no concrete evidence has been found against the petitioner. Although, the petitioner is involved in other cases, however, he is on bail.

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 petitioner was involved in the conspiracy and he along with other accused have indulged in trafficking of narcotic substance, which falls under the ambit of commercial quantity. He further submits that the petitioner is involved in other cases, as such, he is not entitled to any relief. However, he could not controvert the fact that the petitioner is on bail in the



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said cases.

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 20 days and not even a single prosecution witness has been examined till date. Thus, conclusion of trial will take considerable long time. Further, the petitioner is not involved in any other case.

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.”

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.

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



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Magistrate/Trial Court/Duty Magistrate

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

05.08.2025

Neha

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