

CRM-M-39831-2024
CRM-M-39989-2024
CRM-M-43546-2024

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2025:PHHC:014002



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

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Date of decision: 30.01.2025

1. CRM-M-39831-2024

Joban Singh

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M-39989-2024

Jaideep Singh @ Jai

....Petitioner

Versus

State of Punjab

....Respondent

3. CRM-M-43546-2024

Gurpinder Singh @ Robin

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Aditya Anand, Advocate
for the petitioner in CRM-M-39831-2024.

Mr. Edward Augustine George, Advocate
for the petitioner in CRM-M-39989-2024.

Mr. Vipul Aggarwal, Advocate
for the petitioner in CRM-M-43546-2024.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Vide this common order, I intend to dispose of CRM-M Nos.39831, 39989 and 43546 of 2024, as common questions of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CRM-M-39831-2024.



2. Prayer in these petitions filed under Section 483 of the BNSS, 2023 and Section 439 Cr.P.C., is for grant of regular bail to the petitioners namely Joban Singh, Jaideep Singh @ Jai and Gurpinder Singh @ Robin in FIR No.129 dated 18.05.2024 registered under Section 21/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Rama Mandi, District Jalandhar.

3. As per the allegations in the FIR, on 18.05.2024, Dheeraj Kumar and Vivek Kumar were apprehended near under bridge of Surya Enclave, Jalandhar. From the polythene thrown by Vivek Kumar @ Golu, 10 grams heroin was recovered, whereas from the polythene thrown by Dheeraj Kumar, 15 grams heroin was recovered. They were arrested. Thereafter, abovesaid accused persons suffered disclosure statements that they had purchased the recovered heroin from Joban Singh. On the basis of above disclosure statements, Joban Singh was nominated in this case as an accused. On 22.05.2024, a raid at the house of Joban Singh was conducted, where three persons were seen standing in the street near the house of Joban Singh. On seeing the police party, two persons threw polythenes at the spot and they all tried to flee away from there. All the above persons were apprehended. From the polythene thrown by accused Sarabjit Singh @ Saba, 01 kg heroin was recovered and from the polythene thrown by accused Gaurav, one electronic scale and 20 empty pouches were recovered. Abovesaid accused persons were arrested and they suffered disclosure statements



that the heroin in question was procured by them from Gurpinder Singh @ Robin and Jaideep Singh @ Jai. Thereafter, abovesaid Gurpinder Singh @ Robin was also arrested and he got recovered ₹ 7,00,000/- from his house. Accused Jaideep Singh @ Jai was also arrested. On the basis of disclosure statements of abovesaid accused persons, Gursewak Singh @ Bunty, Rajan @ Ghuggi, Manni, Paul, Ajay, Seetu and Manjit Singh were also nominated in this case. Accused Manjit Singh was arrested and a car bearing No.PB02-DS4502 was recovered from him. Thereafter, the FIR (supra) was registered.

4. Learned counsel for the petitioner(s) *inter alia* contends that the petitioner – Joban Singh is neither named in the FIR nor arrested at the spot and he has been falsely implicated on the basis of the disclosure statement made by co-accused Vivek Kumar and Dheeraj whereas the petitioner Jaideep Singh @ Jai has been nominated in the FIR on the basis of the disclosure statement made by co-accused Sarabjit Singh, while in police custody which has no evidentiary value in the eyes of law. It is a trite law that any statement recorded by the police under Section 67 of the NDPS act would be hit by Section 25 of the Evidence Act and nothing has been recovered from the conscious and exclusive possession of the petitioner(s) and the petitioners namely Joban Singh and Jaideep Singh @ Jai are not involved in any other case and are having clean antecedents.

5. Learned counsel for the petitioner – Gurpinder Singh submits that nothing has been recovered from the exclusive and



conscious possession of the petitioner and he has been nominated in the FIR only on the basis of the disclosure statement made by co-accused Sarabjit Singh and Rs.7 lakhs recovered from the petitioner is not the drug money, in fact it is the earnest money with regard to sale of a truck bearing registration No.PB06-AK-4595 which he received from one Nirmal Singh, as discernible from an agreement-cum-memorandum Annexure P-2.

6. Learned counsel for the petitioner(s) further submits that there are total 13 prosecution witnesses cited in the list of witnesses, out of which, none has been examined till date and the trial is likely to take long time in conclusion.

7. *Per contra*, learned State counsel has filed custody certificate(s), 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 the petitioner – Gurpinder Singh @ Robin and Joban Singh, are involved in some other cases also and as per the disclosure statement made by co-accused, the petitioner – Joban Singh is the supplier of the contraband which was recovered from the co-accused, however, he could not controvert the fact that the petitioner – Jaideep Singh @ Jai, is not involved in any other case and the petitioner – Gurpinder Singh @ Robin is already on bail in other cases registered against him.

8. 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 08 months and 02 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 13 prosecution witnesses, none has been examined so far.

9. 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."

10. 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 his rights under Article 21 of the Constitution of India.

11. Further keeping in view the law laid down by the Hon'ble Supreme Court of India in "*Prabhakar Tewari vs. State of U.P. and another*" 2020 (1) R.C.R. (Criminal 831) and "*Maulana Mohd. Amir Rashadi vs. State of U.P. and another*", 2012 (2) SCC 382, the involvement of the petitioner(s) in other cases would not be a ground to refuse grant of concession of regular bail.

12. In view the discussion above, the present petitions are allowed. Accordingly, without commenting upon the merits of the case, the petitioner(s) namely Joban Singh, Jaideep Singh @ Jai and Gurbinder Singh @ Robin 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.

13. 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.

14. A photocopy of this order be placed on the file of other connected cases.

(HARPREET SINGH BRAR)
JUDGE

30.01.2025

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No