



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

234

CRM-M-28706-2025
Date of decision: 05.08.2025

Rajat

....Petitioner

Versus

U.T. Chandigarh

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Meghna Nehra, Advocate
for the petitioner.

Ms. Sharmila Sharma, APP, U.T., Chandigarh.

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.08 dated 13.04.2024 registered under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station ANTF, Sector 11, Chandigarh.

2. As per the prosecution version, on 13.04.2025, while on crime control duty near SB Sr. Secondary School, Sector 24, Chandigarh, HC Rakesh Kumar received an information about a boy selling drugs near House No.2159, Sector 24-C. The boy, identified as Rajat, was allegedly concealing drugs at different locations, sharing videos and locations with buyers, and receiving payments online. Acting on the tip-off, Rajat was apprehended and during a personal search, two plastic pouches containing 15.36 grams of Heroin and 2.04 grams of



crack balls were recovered. Upon interrogation, Rajat disclosed that he sourced the drugs from a person named Vivek of Sector 52, Chandigarh, and that both had procured drugs from Ferozepur and Amritsar, Punjab. Rajat further revealed that he concealed the drugs at various locations as per Vivek's instructions, who then sent the details to customers and received payments, part of which was forwarded to Rajat. Hence, the impugned FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the FIR (supra). The contraband, which is allegedly recovered from the possession of the petitioner does not fall within the ambit of commercial quantity, as such, the embargo created under Section 37 of the NDPS Act, would not apply in the present case. Further, the investigation is complete and petitioner is not involved in any other case. The petitioner is behind the bars since 13.04.2025.

4. Learned counsel for the petitioner further submits that there are total 22 prosecution witnesses cited in the list of witnesses, out of which, not even a single prosecution witness has been examined till date and the trial is likely to take long time in conclusion.

5. *Per contra*, learned APP, U.T., Chandigarh, has filed custody certificate of the petitioner today in the Court which is taken on record and she opposes the prayer made by learned counsel for the petitioner on the ground that the petitioner was apprehended at the spot and as such, the complicity of the petitioner is duly established,



however, she could not controvert the fact that the petitioner is not involved in any other case.

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 03 months and 24 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges have been framed and trial of the case has not made much progress. Out of 22 prosecution witnesses, no PW has been examined till date.

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 of the above discussions, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Rajat 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.

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

05.08.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No