



CRM-M-31943-2025 (O&M) and one more case 1
284+286 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1. CRM-M-31943-2025 (O&M)
Date of Decision: 03.07.2025
VISHNU AVTAR GAUR ...PETITIONER

Versus

STATE OF HARYANA ...RESPONDENT

2. CRM-M-6154-2025 (O&M)
Date of Decision: 03.07.2025
DEEPAK PANDEY ...PETITIONER

Versus

STATE OF HARYANA ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vaibhav Narang, Advocate
for the petitioner in CRM-M-31943-2025.

Mr. Gautam Dutt, Mr. Mehtab Kamboj,
Mr. Akur Mehta and Mr. Rohit Suri, Advocates
for the petitioner in CRM-M-6154-2025.

Mr. Harkesh Kumar, AAG Haryana.

Harpreet Singh Brar, J. (Oral)

1. These two petitions are decided vide this common order as all the petitions are arising out of the same FIR. However, the facts are taken from CRM-M-31943-2025.

2. These are the first petitions filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioners in case bearing FIR No. 310 dated 08.11.2024 (Annexure P-1) registered under Sections 22C, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act') and Section 238 of Bhartiya Nyaya Sanhita, 2023 at Police Station Sector-6, Bahadurgarh, District Jhajjar, Haryana.

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3. The FIR in present case was registered on the complaint of Sub Inspector Kuldeep Singh. A police party headed by Sub Inspector Kuldeep received a secret information that Sahil Rathi and Sumit @ Chintu could be caught red handed with contraband injections. Accordingly, the police apprehended both the accused Sahil Rathi and Sumit @ Chintu, who were sitting on TVS Jupiter Scooty bearing registration no. HR-13S-9170. After making compliance of under Section 50 NDPS Act, they were searched. On the search of TVS Scooty, 3 strip of buprenorphine injections IP (2 ml. Each injections) marka IP LEEGESIC (five injections in each strip), containing total 30 ml/gm were recovered. On the disclosure statement of Sahil Rathi, the police reached at Firojabad, U.P. On the demarcation of accused Sahil Rathi, the accused Dinesh Kumar was apprehended when he was sitting on a medical store with name and style of Nikhil Medical Store. The said medical store was also got searched with the help of Sh. Kapil Sharma, Drugs Inspectors of District Firojabad, U.P. In the search of said medical store, 5 injections of Tramadol were recovered without any legitimate record. Thereafter, accused Dinesh Kumar was apprehended and taken on police remand. On his disclosure statement, one another accused namely Gaurav Gupta was apprehended from Agra (UP) and his godown situated in a village of District Agra was got searched. In the search of said godown, a huge quantity of buprenorphine injections marka REXOGESIC batch no. ABM 24003 (1 box having 60 small boxes) containing total 1500 injections of 2 ml each, and 36 boxes of Avil vile and 180 empty boxes of IP LEEGESIC buprenorphine injections were recovered. The 1500 injections recovered from the godown of Gaurav Gupta were taken in possession by police and whereas 36 boxes of Avil vile were taken in possession by Drug Inspector Kapil Sharma. Further on the disclosure statement and demarcation of Gaurav Gupta, one

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Sanjeev Gupta from Aligarh was apprehended. Thereafter, the police on the disclosure statement and demarcation of accused Sanjeev Gupta arrested Deepak Pandey (petitioner) from Muradabad. On the disclosure statement of petitioner-accused Deepak Pandey, the police came to the conclusion that Deepak Pandey created a forged and bogus firm with the name and style of Radha Medical Agency and used to sell drugs to Sanjeev Gupta and Gaurav Gupta while creating forged bills in the name of a firm with name and style of Prayag Pharma owned by one Sachin Sexana.

4. Learned counsels for the petitioners *inter alia* contend that admittedly the contraband was allegedly recovered from the conscious possession of co-accused. The petitioners are not named in the FIR. Further, there is no cogent material available on record to establish the conscious possession of the petitioners over the alleged contraband. Petitioners have been nominated on the basis of disclosure statements made by co-accused during their custodial interrogation, which have no evidentiary value in the eyes of law as the statements recorded by the police under Section 67 of NDPS Act would be hit by Sections 26 and 27 of Indian Evidence Act. Investigation of the case is complete and petitioners are having clean antecedents and they are not involved in any other case.

5. Learned State counsel has filed the custody certificates of the petitioners and *per contra* opposes the prayer for grant of regular bail to the petitioners on the ground that complicity of the petitioners is duly established as they are suppliers of the contraband. As such, they do not deserve any leniency by this Court. However, he could not controvert the fact that petitioners are not involved in any other case and they have undergone more than 07 months of custody and till date out of total 51 PWs, none has been examined.

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6. Having heard learned counsels for the parties and after perusing the record of the case, it transpires that both the petitioners are behind the bars for the last 07 months and 04 days and 07 months 11 days respectively and trial of the case would take sufficient long time to conclude as out of total 51 prosecution witnesses, none has been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioners.

7. 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."

8. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioners-Vishnu Avtar Gaur and Deepak Pandey are 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



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directed to proceed with the matter on its own merits, lest it may prejudice the trial.

10. A photocopy of this order be placed on the files of other connected cases.

(HARPREET SINGH BRAR)
JUDGE

03.07.2025

Ajay Goswami

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No