



**239-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-32473-2025
Date of decision: 16.07.2025

AbhiPetitioner
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vinod Bhardwaj, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.39 dated 09.02.2025 under Sections 22(c) and 29 of the NDPS Act registered at Police Station Civil Line, Kaithal, District Kaithal.

Brief facts of the prosecution case are that on 08.02.2025, ASI Rajesh Kumar along with co-police officials was on patrolling duty for prevention of crime near railway crossing, bus stand Kaithal, where secret informer informed him that Vikram @ Kalu son of Daya Ram and Sanjeev son of Ram Kumar, are indulged in selling narcotics tablets near bus stand, Kaithal and Hanuman Vatika, Kaithal and they would come at Randhir Colony, Karnal Road, Kaithal for sale of narcotic tablets to drug addicts and could be apprehended along with narcotic tablets. Upon the said information, notice under Section 42 of NDPS Act was prepared and sent to police station Civil Line Kaithal and after about 10-15 minutes two persons were seen coming on a motorcycle from the side of Sugar Mill, Kaithal and were apprehended. On asking, the driver of motorcycle disclosed his name Sanjeev son of Ram



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Kumar, resident of Kapil Nagar, Kaithal and pillion rider disclosed his name Vikram @ Kalu son of Daya Ram, resident of Kapil Nagar, Kaithal and he was having a polythene in his hand. On search of the said polythene, 90 strips of banned tablets i.e. 10 tablets in each strip of Tramadol Hydrochloride Sustained Release Tablets IP 100 mg, Trohima-100 SR were found, which were narcotic tablets and were banned. As such, Vikram @ Kalu and Sanjeev by keeping 900 banned narcotic tablets weighing 278.1 grams had committed offence under Section 22(c) of NDPS Act, on which Tahrir was sent to police station and FIR was got lodged.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case as he was neither named in the FIR (*supra*) nor any intoxicant tablets were recovered from his conscious and exclusive possession. He further contends that similarly situated co-accused, namely, Robin Gupta and Ram Mehar, have been granted the concession of regular bail by this Court vide common order dated 23.05.2025 passed in CRM-M-17984-2025 titled as 'Robin Gupta Vs. State of Haryana' (Annexure P-3). Further, the petitioner has been nominated on the basis of disclosure statement made by co-accused, during custodial interrogation and it is a trite law that any statement recorded by the police officer under Section 67 of the NDPS Act would be hit by Sections 25 & 26 of the Evidence Act, which has no evidentiary value in the eyes of law. Furthermore, apart from the disclosure statement of co-accused, there is no other evidence to connect the petitioner with the alleged recovery. He submits that the petitioner is not involved in any other case under the NDPS Act and is behind the bars since 10.02.2025.



The learned State counsel has filed custody certificate along with status report in the Court today which are taken on record and per contra, on instructions from ASI Amarjeet, opposes the grant of regular bail to the petitioner on the ground that the petitioner is the supplier of the intoxicant, which was recovered from co-accused, as such, his complicity is duly proved on record. However, he could not controvert the fact that the petitioner is not involved in any other case and there is no other evidence against him apart from the disclosure statement of co-accused.

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.”

Having heard learned counsel for the parties and after perusing the

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record of the case, it transpires that the petitioner is behind the bars since 10.02.2025. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as only 01 out of 19 prosecution witnesses, 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/petitioner. 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.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Abhi, is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

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

16.07.2025*Neha*

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