



352

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

CRM-M-47252-2024

Date of decision: 21.07.2025

Jafar Aalam

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. D.S. Virk, Advocate  
for the petitioner.

Mr. Satbir Goripuria, DAG, 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.0212 dated 18.03.2024 under Sections 15(C)/25/29 of the NDPS Act registered at Police Station City Karnal, District Karnal.

Compactly, the facts of the case are that on 18.03.2023, ASI Parveen Kumar arrested the prime accused, namely, Dheer Singh @ Dheera on the basis of secret information in possession of 200 kgs of choora post, without any permit or licence. During the course of investigation, the said accused discovered that he procured the choora post from the accused/petitioner and consequently, the accused/petitioner was arrested and on his identification, another co-accused, namely, Rajbir Chauhan @ Ullas Mehto was arrested and hence, the present case.

Learned counsel for the petitioner *inter alia* contends that admittedly, nothing has been recovered from the conscious and exclusive possession of the petitioner. The petitioner has been nominated as an accused



CRM-M-47252-2024

-2-

in the present case on the basis of disclosure statement made by co-accused during his custodial interrogation which has 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 25 and 26 of Indian Evidence Act. The petitioner is behind the bars since 21.03.2024 and the investigation of the case is complete.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that the complicity of the petitioner is duly established and 200 kg of choora post has been recovered in the present case which falls under the ambit of commercial quantity and as such, an embargo of Section 37 of the NDPS Act has been attracted and thus, the petitioner is not entitled to any relief.

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*



CRM-M-47252-2024

-3-

*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 record of the case, it transpires that the petitioner is behind the bars since 21.03.2024. 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. 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-Jafar Aalam 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**

21.07.2025

*Neha*

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