



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

**230**

**CRM-M-26469-2025 (O&M)  
Date of decision: 20.05.2025**

Lakhan

....Petitioner

Versus

State of Haryana

....Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. Vikas Bishnoi, Advocate  
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

**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.390 dated 15.11.2022 registered under Section 21(b) of the NDPS Act at Police Station Bhuna, District Fatehabad.

2. As per the allegations in the FIR, on 15.11.2022, ASI Major Singh, along with his team, was on patrolling duty in Bhuna. While traveling in a government vehicle, they noticed a young individual, Deepak Kumar alias Deepu, who tried to flee away from the spot upon seeing the police party. Thereafter, he was apprehended on the basis of suspicion. Deepak Kumar could not provide a satisfactory explanation for his action and ASI then served him a notice under Section 50 of the NDPS Act, informing him of his right to be searched in front of a Gazetted officer or a Magistrate. Deepak Kumar agreed to a search by a



Gazetted Officer on the spot. After contacting Shri Anil Kumar, an Associate Professor at Government College Bhuna, his search was conducted, and 11.8 grams of Heroin was recovered from his pocket. Thereafter, the impugned FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is not named in the FIR and the alleged recovery was effected from the conscious and exclusive possession of the co-accused Deepak Kumar alias Deepu. The alleged recovery does not fall within the ambit of commercial quantity. Further the petitioner has been nominated in the case on the basis of the disclosure statement made by co-accused Deepak Kumar alias Deepu, during his custodial interrogation, which has no evidentiary value in the eyes of law as the same is hit by Sections 25 and 26 of the Evidence Act. Apart from the disclosure statement, there is no other evidence available against the petitioner to link him with the alleged recovery. Initially, the petitioner was granted the concession of regular bail by learned trial Court on 28.02.2023 and thereafter, he continued to appear before the learned trial Court, however, on 29.04.2024, he could not attend the trial Court and thereafter, he was declared as proclaimed offender and later on, arrested on 20.12.2024 and till date, he has suffered the incarceration of 07 months and 04 days and although, he is involved in other cases of NDPS Act, however, he is on bail.

4. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record and he opposes



the prayer made by learned counsel for the petitioner on the ground that the petitioner is a habitual offender and he intentionally did not appear before the learned trial Court and absented himself without any justifiable cause.

5. 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 07 months and 04 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.

6. 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.”*

7. 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.

8. 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 in other cases would not be a ground to refuse grant of concession of regular bail.

9. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Lakhan 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. The petitioner is directed to deposit Rs.50,000/- before the learned trial Court, at the time of furnishing bail/surety bonds and in case, he fails to appear before the learned trial Court without any sufficient cause, the same shall be forfeited to District Legal Services Authority, Fatehabad.



11. 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**

**20.05.2025**

*yakub*

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No