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

1) CRM-M-37602-2025
Date of decision: 23.07.2025

Pankaj @ Pankaj Joshi ...Petitioner

Versus

State of Punjab ...Respondent

2) CRM-M-37825-2025

Shivansh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kashav Chadha, Advocate
for the petitioner (in CRM-M-37602-2025).

Mr. Jagjit Singh Lalli, Advocate
for the petitioner (in CRM-M-37825-2025).

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

This common order shall dispose of the aforementioned petitions as they arise from a similar factual matrix. However, for the sake of brevity, the facts are taken from CRM-M-37825-2025.

The present petition(s) has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.51 dated 07.03.2025 under Sections 21/29/27-A of the NDPS Act registered at Police Station Basti Bawa Khel, Police Commissionerate Jalandhar (Annexure P-1).

As per the allegations in the FIR, on 07.03.2025 at about 12:10 AM, ASI along with a police team was on patrol duty near the Leather



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Complex Road, Jalandhar, when they stopped a suspicious white Scorpio vehicle bearing registration No.PB-08-DQ-7865 with five occupants namely Shivansh (the petitioner herein), Johny alias Bhaiya, Kanwarpal Singh, Sunil Singh, and Pankaj Joshi (the petitioner herein). Upon informing them of suspicion regarding possession of narcotics, the vehicle was searched in the presence of the police team and from the glove box of the vehicle, a heavy polythene envelope and a computerized weighing scale were recovered. The envelope contained a transparent packet of white substance which was identified as heroin, weighing 100 grams. The heroin and weighing scale were sealed and taken into possession, and the vehicle was also seized. Thereafter, the impugned FIR was registered.

Learned counsel for the petitioner(s) *inter alia* contends that there is no evidence to prove the conscious possession of the petitioner(s) over the alleged recovered contraband. Admittedly, *heroin* was recovered from the glove box of the vehicle in which 05 persons were travelling, as such, it is difficult to pinpoint the conscious possession on one particular accused. Further, the quantity involved in the present case is non-commercial in nature, as such, embargo under Section 37 of the NDPS Act would not apply in the present case. The petitioner(s) have suffered the incarceration of more than 04 months and investigation of the case is complete. The petitioners are not involved in any other case under the NDPS Act, whereas, petitioner, namely, Shivansh, is involved in one more case under the provisions of IPC. Further, till date, out of 15 prosecution witnesses, not even a single witness has been examined till date and trial of the case is likely to take long time in conclusion.



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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 record of the case, it transpires that petitioners, namely, Pankaj @ Pankaj Joshi and Shivansh, are behind the bars since 09.03.2025. 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 out of 15 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/petitioner(s). Keeping the petitioner(s) in further



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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.

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

In view the above, the present petitions are allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioners, namely, Pankaj @ Pankaj Joshi and Shivansh, are ordered to be released on regular bail during trial on their 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.

A photo copy of this order be placed on the file of connected case.

(HARPREET SINGH BRAR)
JUDGE

23.07.2025
Neha

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