CNR No: PHHC010992522025
2026:PHHC:183380

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-34237-2025 (O&M)
Date of Decision:29.09.2026

Manish Kumar Saroha

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MS. JUSTICE NEERJA K. KALSON

Present:- Mr. Jagdeep S. Rana, Advocate for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

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NEERJA K. KALSON J.(Oral)

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking quashing of FIR No.0042 dated 23.01.2025, registered at Police Station Bhondsi, District Gurugram, under Section 61 of the BNS (corresponding to Section 120-B IPC), Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and [Section 42-A of the Prisons Act (added subsequently)] (Annexure P-1), along with all consequential proceedings arising therefrom, qua the petitioner.

2. Briefly, the prosecution case, as emerging from the record, is that as per the complaint emanating from District Jail, Bhondsi, Gurugram, a search of the barrack was conducted, during which 4 grams of a narcotic substance was recovered from the possession of coaccused Mohit. Upon questioning, coaccused Mohit allegedly disclosed that the said substance was meant for the petitioner in lieu of canteen articles worth Rs. 1,997/- provided by him in connection of a birthday party. On the basis thereof, the

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FIR in question came to be registered. The RFSL report confirmed the recovered substance to be 'Charas'.

3. Learned counsel for the petitioner submits that the petitioner has been implicated primarily on the basis of the disclosure statement attributed to co-accused Mohit and the disclosure statements subsequently recorded during investigation. It is emphasized that the contraband was admittedly recovered from co-accused Mohit and no recovery whatsoever was effected from the petitioner, his belongings or any place under his possession or control. It is further contended that the record pertaining to purchase of articles worth ₹1,997/- from the jail canteen merely evidences purchase of such articles and, by itself, does not establish any nexus between the petitioner and the contraband recovered from co-accused Mohit. Learned counsel further points out that the prosecution seeks to relate the alleged procurement of the contraband to a party stated to have been held on 14.01.2025 on account of the petitioner's birthday, whereas his date of birth is 13.06.1979, as reflected in his passport (Annexure P-2) as well as the document issued by the Canadian authorities (Annexure P-3). It is, accordingly, contended that the very circumstance relied upon to explain the alleged procurement does not find support from the documentary material placed on record. Learned counsel, therefore, submits that in the absence of any independent incriminating material connecting the petitioner with the recovered contraband, continuation of the criminal proceedings against him would amount to abuse of the process of law.

4. *Per contra*, learned State counsel opposes the petition and submits that sufficient incriminating material has been collected during investigation. It is contended that coaccused Mohit specifically attributed a

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role to the petitioner; the petitioner himself suffered a disclosure statement; and the investigating agency obtained the record of articles purchased by the petitioner from the jail canteen in connection with the party referred to in the prosecution case. It is further submitted that the RFSL report confirms the recovered substance to be 'Charas' and that the final report already stands presented. According to the State, the pleas sought to be raised by the petitioner involve appreciation of evidence and ought to be examined by the learned trial Court rather than in exercise of inherent jurisdiction under Section 528 BNSS.

5. Having heard learned counsel for the parties and upon consideration of the material placed on record, the question which arises for consideration is whether the material collected during investigation, even if accepted at its face value, discloses a prima facie nexus between the petitioner and the contraband recovered from co-accused so as to warrant continuation of the prosecution against him.

6. The parameters governing exercise of inherent jurisdiction are well settled. Such jurisdiction is not intended to undertake a meticulous appreciation of evidence or to determine, at the threshold, whether the prosecution would ultimately culminate in conviction. At the same time, where investigation stands concluded and the final report has been presented, the material collected during investigation may be examined for the limited purpose of ascertaining whether, even if accepted at its face value, it discloses the essential ingredients of the offence alleged against a particular accused. The Court, at this stage, does not weigh the probative value of such material; the enquiry remains confined to whether a prima facie factual foundation exists for continuation of the criminal proceedings.

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7. In this regard, reference may appropriately be made, wherein the Hon'ble Supreme Court, in ***Sajal Bose v. State of West Bengal and others, 2026 INSC 322 : 2026 SCC OnLine SC 525***, while reiterating the principles governing exercise of inherent jurisdiction, observed in paragraph 23 as under:-

> *"23. Keeping in view the aforesaid principles, it is evident that the inherent jurisdiction of the High Court under Section 482 of CrPC is intended to be exercised, inter alia, where the allegations made in the FIR, even if taken at their face value, do not prima facie constitute any offence, or where the uncontroverted allegations and the material collected fail to disclose the commission of an offence, or where the criminal proceeding is manifestly attended with malafide and instituted with an ulterior motive for wreaking vengeance. The categories illustratively enumerated in paragraph 102 of Bhajan Lal (supra) serve as guiding principles to prevent abuse of the process of law and to secure the ends of justice. Tested on the anvil of these settled parameters, it becomes necessary to examine whether the allegations in the present case, read as they stand along with the material on record including the CCTV footage, disclose the essential ingredients of the offences alleged against the appellants, or whether the continuation of proceedings qua them would amount to permitting the criminal process to be used as an instrument of harassment."*

8. Tested on the aforesaid parameters, it is undisputed that the contraband was recovered from co-accused Mohit and no recovery was effected from the present petitioner. No narcotic substance was recovered either from his person or belongings or from any place shown to be under his possession or control.

9. The prosecution case qua the petitioner rests substantially upon

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the disclosure statement attributed to co-accused Mohit. Since it is this disclosure which forms the principal link sought to be drawn between the petitioner and the recovered contraband, it becomes necessary to notice the settled position concerning the evidentiary value of such statements under the NDPS Act. This exercise is not undertaken to finally determine their admissibility or probative value, which would ordinarily fall within the domain of the trial Court, but to ascertain whether the investigation has yielded any independent incriminating material connecting the petitioner with the alleged offence.

10. At this stage, reference may be made to the Constitution Bench judgment of the Hon'ble Supreme Court in ***Tofan Singh v. State of Tamil Nadu, (2021) 4 SCC 1***, wherein it was held that officers invested with powers under Section 53 of the NDPS Act are police officers within the meaning of Section 25 of the Evidence Act and that a statement recorded under Section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act. The conclusions recorded in paragraph 158, particularly paragraphs 158.1 and 158.2, read as under:-

> *"158. We answer the reference by stating:*
> *158.1. That the officers who are invested with powers under Section 53 of the NDPS Act are 'police officers' within the meaning of Section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of Section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act.*
> *158.2. That a statement recorded under Section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an*

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offence under the NDPS Act."

11. The effect of the aforesaid principle in a case where a role is attributed to an accused through the statement of a co-accused was considered by the Hon'ble Supreme Court in ***Balwinder Singh (Binda) v. Narcotics Control Bureau, 2023 INSC 852***. In that case, the co-accused had attributed a role to Balwinder Singh in his statement recorded under Section 67 of the NDPS Act. Upon excluding the confessional statements in view of Tofan Singh (supra), the Hon'ble Supreme Court examined whether any independent incriminating material survived against him and held in paragraph 12 as under:-

> *"12. Once the confessional statement of the co-accused, Satnam Singh recorded by the NCB officers under Section 67 of the NDPS Act, who had attributed a role to Balwinder Singh and the subsequently recorded statement of Balwinder Singh himself under Section 67 of the NDPS Act are rejected in the light of the law laid down in Tofan Singh (supra), there is no other independent incriminating evidence that has been brought to the fore by the prosecution for convicting Balwinder Singh under the NDPS Act. On ignoring the said confessional statements recorded before the officers of the NCB in the course of the investigation, the vital link between Balwinder Singh and the offence for which he has been charged snaps conclusively and his conviction order cannot be sustained."*

12. Reverting to the present case, the disclosure statements recorded during investigation did not lead to recovery of any contraband from or at the instance of the petitioner. The material relied upon by the prosecution, independent of the disclosure version, therefore, requires

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consideration only to ascertain whether it furnishes a *prima facie* link between the petitioner and the contraband recovered from co-accused Mohit. It is in this context that the canteen record and the RFSL report assume relevance.

13. One of the circumstances relied upon by the prosecution to connect the petitioner with the alleged contraband is that co-accused Mohit had procured the same for the petitioner and other inmates for consumption at a party allegedly being held on account of the petitioner's birthday. This circumstance assumes significance since no recovery was effected from the petitioner and the prosecution seeks to rely upon the canteen record showing purchase of articles worth ₹1,997/- in support of the said version. However, the petitioner has placed on record his passport (Annexure P-2), which reflects his date of birth as 13.06.1979, as also the document issued by the Canadian authorities (Annexure P-3) reflecting the same date of birth, whereas the alleged party is stated to have been held on 14.01.2025. The documentary material, therefore, prima facie does not support the premise sought to be attributed to the said gathering. Though the discrepancy, by itself, may not conclusively negate the possibility of a gathering having taken place on that date, it materially weakens the circumstance relied upon by the prosecution to explain the alleged procurement of the contraband for the petitioner. More importantly, no material, independent of the disclosure version, has been pointed out to show that the petitioner had instructed, requested, financed or otherwise facilitated procurement of the contraband, or that the canteen articles purchased by him constituted consideration therefor. The incriminating character sought to be attributed to the canteen record, therefore, continues to emanate essentially from the disclosure

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version itself.

14. The RFSL report, on the other hand, confirms that the substance recovered from co-accused Mohit was 'Charas'. While it establishes the nature of the recovered substance, the report does not connect the petitioner with its possession, procurement or consumption.

15. The matter, therefore, does not call upon this Court to choose between competing versions, test the credibility of witnesses or embark upon a meticulous evaluation of the prosecution evidence. The enquiry remains confined to whether the material collected during investigation, accepted as it stands, furnishes the requisite *prima facie* nexus between the petitioner and the contraband recovered from co accused Mohit.

16. In this context, it would also be apposite to refer to ***Sajal Bose (supra),*** wherein the Hon'ble Supreme Court observed in paragraph 34 as under:-

> *"34. In this backdrop, compelling appellant Nos. 1, 2 and 3 to face a full-fledged criminal trial would serve no meaningful purpose. The continuation of such proceedings, in face of total lack of credible material connecting them with the alleged offences, would amount to misuse of the criminal process. The present case, therefore, satisfies each of the parameters delineated in Pradeep Kumar Kesarwani (supra). Where reliable and unimpeachable material demonstrably displaces the factual basis of the accusations and the prosecution is unable to effectively counter the same, the Court would be justified in invoking its inherent jurisdiction to prevent injustice. Such an approach not only accords justice to the accused but also obviates the wastage of precious judicial time on proceedings which, on the admitted material, do not hold a reasonable prospect of culminating in conviction."*

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The aforesaid principle recognizes exercise of inherent jurisdiction where the material on record fails to sustain the factual foundation of the accusation and continuation of the proceedings would result in misuse of the criminal process.

17. Viewed thus, the material relied upon by the prosecution, independent of the disclosure version, does not furnish any incriminating circumstance connecting the petitioner with the contraband recovered from co-accused Mohit. The link sought to be drawn against the petitioner continues to rest essentially upon the disclosure attributed to the co-accused.

18. Thus, even if the material collected during investigation is accepted at its face value, it does not disclose the requisite prima facie factual foundation connecting the petitioner with the offence alleged under the NDPS Act. In such circumstances, continuation of the criminal proceedings against the petitioner would serve no meaningful purpose and would amount to abuse of the process of law, warranting exercise of the inherent jurisdiction of this Court under Section 528 BNSS to secure the ends of justice.

19. Consequently, the present petition is allowed. FIR No.0042 dated 23.01.2025, registered at Police Station Bhondsi, District Gurugram, under Section 61 of the BNS, Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 42-A of the Prisons Act, along with all consequential proceedings arising therefrom, is hereby quashed qua the present petitioner only.

20. It is, however, clarified that the observations made herein are confined to the case of the present petitioner and shall not be construed as an

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expression of opinion on the merits of the prosecution case against the remaining accused.

21. Pending application(s), if any, shall also stand disposed of.

(NEERJA K. KALSON)
JUDGE

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

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