

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 37680 of 2015 (O&M)
Date of Decision: 01.11.2019

Parminder Singh alias Sunny

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. M.S.Virdi, Advocate
for the petitioner.

Mr. S.S.Cheema, AAG, Punjab assisted by
ASI Daljit Singh.

HARNARESH SINGH GILL, J. (ORAL)

This petition has been filed for quashing of FIR No. 7 dated 10.2.2014 registered under Sections 27/61 of Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act' for short) Police Station Begowal, District Kapurthala (Annexure P-1) all the consequent proceedings arising therefrom, including the order dated 7.7.2015 (Annexure P-2) vide which charge under Section 27 of NDPS Act was framed against the petitioner.

As per FIR, the police party received information from an informant that in the area of New Grain Market, two young boys were consuming smoke of heroin by wrapping the same in silver paper and when the police party reached at the spot, both were apprehended. Both the boys disclosed their names as Balraj Singh alias Mintu and Parminder Singh alias Sunny (petitioner). Matchsticks, a match box, silver paper, burnt note of Rs. 10, burnt matchsticks and a candle were recovered from them, which

were taken into possession. Ruqa was sent to the police station and the FIR in question was registered against Balraj Singh and Parminder Singh (petitioner).

After completion of investigation and necessary formalities, challan was presented in the Court /Judicial Magistrate Ist Class and charge under Section 27 of NDPS Act was framed on 7.7.2015 (Annexure P-2).

Blood and urine samples of the petitioner and other accused were sent for chemical examination. Report of the Chemical Examiner dated 7.1.2015 was received which was placed on record along with the challan and has also been placed on record before this Court as Annexure P-3. As per the said report, no intoxicant was found in the blood samples or in the urine samples.

On 4.11.2015, notice of motion was issued and following order was passed:-

“Learned counsel for the petitioner has submitted that as per the report of the chemical examiner, no intoxicant was found in the sample of blood and urine of the petitioner sent for the purposes of examination.

Notice of motion for 11.2.2016.

Further proceedings before the trial Court shall remain stayed.”

Reply by way of affidavit of Navneet Singh Mahal, P.P.S., Deputy Superintendent of Police dated 7.7.2016 was filed.

Para 4, on merits, of the reply reads as under:-

“That the contents of para No. 4 of the petition are matter of record that as per report dated 7.1.2015 has been received from the Chemical Examiner vide which no intoxicant was found in the said sample.”

I have heard the learned counsel for the petitioner and the

learned State counsel.

Learned counsel for the petitioner has argued that in the light of the report of Chemical Examiner, no case is made out against the petitioner and, thus, the FIR in question and all subsequent proceedings arising therefrom, are liable to be quashed.

On the other hand, learned State counsel has argued that the petition is without any merit and devoid of any legal force and prayed for dismissal of the petition.

However, when specific question was put to the learned State counsel that as per the report of the Chemical Examiner, no intoxicant was found in the blood and urine samples, he fairly admitted.

Since the report of the Chemical Examiner dated 7.1.2015 (Annexure P-3) does not disclose any intoxicant substance, it will be of no use to allow prosecution to further proceed with this case.

Keeping in view the facts and circumstances of the present case, the petition is allowed. FIR No. 7 dated 10.2.2014 registered under Section 27/61 of the NDPS Act, Police Station Begowal, District Kapurthala (Annexure P-1) and all the consequential proceedings, arising therefrom including the order dated 7.7.2015 (Annexure P-2), are quashed qua the petitioner.

(HARNARESH SINGH GILL)
JUDGE

November 01, 2019
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : Yes