

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M No. 29577 of 2021
Date of Decision: 10.12.2021**

Gurbhej Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. P.S.Sekhon, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. In FIR bearing No. 36 of 11.4.2021, registered at Police Station Moonak, District Sangrur, offences constituted under Sections 22, and, 29 of the NDPS Act, are embodied.

2. The recovery of the alleged narcotic substance, namely, 22 injections of Pentazocine, from the alleged conscious and exclusive possession, hence carrying a small quantity thereof, hence occurred, on 11.4.2021, from vehicle bearing registration No. RJ-14-UA-3366.

3. The learned counsel for the petitioner submits, that the afore effectuation of recovery, from the alleged conscious and exclusive possession of the accused, rather from the vehicle concerned, by the investigating officer concerned, is a tainted and false one. He argues that it is a sequel, of animosity being nursed against him by the investigating officer concerned. He prays that the investigations into the FIR (supra) be transferred from the local police, to some independent agency concerned.

4. However, the afore made prayer cannot be accepted by this Court, as the entire seizures or seizure of the prohibited narcotic substance concerned, from site of occurrence or in other words, from the site of recovery thereof, by the investigating officer concerned, hence from the alleged conscious and exclusive possession of the accused, imperatively makes the entire investigations to become completed at the relevant site. Moreover, all the recoveries memos, as also all the sealed cloth parcels, within which the apposite seizure is enclosed, are prepared and drawn at the relevant site of occurrence. The NCBs are also filled hence at the spot of occurrence. Moreover, also when even the lodging of the FIR, occurs after a ruqa, becoming sent from the site of occurrence, by the investigating officer concerned, to the police station concerned, and it only embodies a narrative about happenings at the relevant site.

5. In the instant case, the timing of the drawing of the entire proceedings, at the site of occurrence, is 6.30 P.M., on 11.4.2021. The FIR (supra) in respect thereof, became entered in the relevant register, of the police station concerned, at 4.40 P.M., hence earlier thereto. The afore narrated facts, do unfold, that the recording of the FIR, even if is earlier to the seizure as made at the site of occurrence, of the alleged contraband, from the alleged conscious and exclusive possession of the accused. However, the afore inter se delay is only of about two hours. The occurrence of recoveries, subsequent to the lodging of the FIR, does not at all, at this stage, give any strength to the argument of the learned counsel for the petitioner, that the investigations be transferred to some other agency. The reason being, that the investigations, in respect to the offences, constituted under the NDPS Act, are complete, upon proceedings of seizure, and, upon

drawings of the memos concerned, and also, upon the seizure of all seized contraband, hence occurring. Since all the afore mechanisms/procedures are deployed, and, also became deployed in the instant case, at the site of occurrence. Therefore, when the narration in the FIR, is only with respect to some prior information, being with the investigating officer concerned, with respect to the accused carrying, with him, the recovered from him, psychotropic substance, yet the above cannot, at this stage, constitute any ground, suggestive that all the afore processes, when became thereafter completed, at the site of occurrence, are contradictory to the narration only qua prior information, as carried in the FIR, which becomes appended with the petition, as Annexure P-1. The reason being but obvious that Annexure P-1, is merely a narrative of a prior information, and, does not detail the completion, of all the requisite processes, at the spot of occurrence, by the investigating officer concerned. The completest completion of all the relevant procedures rather by the investigating officer concerned, subsequent to Annexure P-1, is a only the apt manner of investigation being made with respect to the offences concerned, and, thereafter, no further investigations are required, and, if required, they only appertain to the report of the FSL, being asked for, and, thereafter upon its being received from the FSL, its becoming appended with the report under Section 173 of Cr.P.C.

6. Moreover, any prayer for transfer of investigations, may be validly made prior to receipt of report of FSL concerned, upon evident statutory breaches becoming committed by the investigating officer concerned. However, the afore factum is not available on the record of this Court.

7. Though, the learned counsel for the petitioner, has argued with

much vigour before this Court, that a Division Bench of Punjab and Haryana High Court, in case titled ***Jagjit Singh Chahal versus State of Punjab, 2015(4) R.C.R. (Criminal) 834***, decided on 07.10.2015, has made a direction, for change of investigation, being made in respect of the offences, carried in the NDPS Act. However, the afore made argument, cannot be sustained, as in case (supra), this Court in paragraphs 171 and 173 thereof, paragraphs whereof stand extracted hereinafter, has rather declined the afore relief.

“171. Having held that, we cannot refrain ourselves from observing that though the petitioners have failed to make out a case for fresh or re-investigation by an independent agency, nonetheless it stands fairly exposed that –

- (i) The investigation carried out by the Punjab Police lacks scientific methodology or modern techniques necessary to nail the professional criminals like drug lords;*
- (ii) There has been an apparent lack of commitment, deliberate or otherwise, in securing impeachable or impeccable evidence of independent nature;*
- (iii) There are some loopholes and gaps, whether left deliberately or otherwise;*
- (iv) There appears to be an indifferent and lackluster attitude on the part of senior police officers who might be comparatively well-versed with the science of narcotic drugs or psychotropic substances etc.;*
- (v) There is an unexplained silence on the efforts, if any, made after the year 2013-14, to nab the organized drug traffickers;*
- (vi) No evaluation of legal, logical and long-lasting linkage between one case to another by way of credible or admissible evidence appears to have*

been made.

172. x x x x x x

173. *Since all the opportunities have not gone out of hand and necessary lacunae can still be filled in through supplementary reports, and false accusations (if any) can be dropped, we direct the State of Punjab, in the interest of complete justice, to constitute a Supervisory Team comprising the following three IPS Officers who shall within three days of the receipt of copy of this order take stock of the situation and examine the charge-sheets already filed in each of the subject FIRs:-*

- (i) *Shri Iswar Singh, IGP-cum-Director, State Narcotic Bureau;*
- (ii) *Smt. V.Neeraja, IPS, IGP-cum-Director, Vigilance Bureau, Punjab;*
- (iii) *Shri G. Nageswara Rao, IPS, IGP Crime. The team shall re-visit the issues illustratively pointed out in para-171 of this order and take the necessary remedial steps.”*

7. However, in the judgment (supra), this Court had, however, for doing complete justice, as the petitioner asks, given their being certain CCTV footages, and videographies hence suggestive of purported animosity existing inter se the investigating officer, and, the accused, hence directed that before the filing of a charge sheet under Section 173 Cr.P.C., by the investigating officer concerned, before the learned trial Court concerned, rather the Inspector General of Police-cum-State Narcotic Bureau, Punjab, scrutinizing and scanning the report. In consonance therewith, the videographies above, as furnished to the investigating officer, be submitted to the IGP Punjab (State Narcotic Bureau, Punjab, who may after making a lawful objective analysis thereof, qua whether the accused-petitioner herein is falsely enlisted, as an accused in the FIR (supra), or his inculcation in the

FIR (supra), being validly drawn by the investigating officer concerned,

may thereafter proceed to not permit or to permit the filing of the report under Section 173 Cr.P.C., by the investigating officer concerned, before the trial Court concerned.

8. The afore made directions are likely to allay the grievances (supra) reared before this Court by the petitioner.

9. This Court appreciates the assistance given to this Court by Mr. P.S.Sekhon, Advocate, appearing on behalf of the petitioner, and, of Ms. Samina Dhir, DAG Punjab, and, besides of Mr. Tanuj Sharma, AAG, Haryana.

10. The petition stands disposed of.

(SURESHWAR THAKUR)
JUDGE

December 10, 2021
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : Yes