

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

CRM-M-39016-2022 (O&M)

Date of decision: 31.08.2022

Amrik Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Arjun Veer Sharma, Advocate for the petitioner.

Ms. Monika Jalota, Sr. DAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the petition is for quashing of order dated 20.09.2021 passed by the learned Judge, Special Court, Sangrur, in case bearing FIR No. 192 dated 05.07.2020 registered under Section 21 and Sections 21-C, 31, 25, 29 (added later on) of the NDPS Act and Section 207 of the Motor Vehicle Act, 1988, at Police Station Bhawanigarh, District Sangrur, whereby an application filed by the petitioner for sending of second sample from bulk parcel of 600 gram to the FSL for analysis, was dismissed.

As per the prosecution, the raid was conducted on a secret information and the petitioner along with co-accused Sarabjit Singh @ Sarbhawas were arrested from the spot. The recovery of 800 gram of heroin was effected from the car bearing registration No. PB-13AQ-8333 and on the

disclosure statement of the petitioner recovery of 600 gram of heroin was effected from the field.

Learned counsel for the petitioner submits that in the present case, two recoveries i.e. 800 gram and 600 gram of *heroin* were allegedly effected; that the recovery of 800 gram of *heroin* was effected from the car, which belongs to the co-accused not the petitioner; that the petitioner was only a co-passenger in the car; that the alleged recovery of 600 gram of *heroin* was planted upon the petitioner by the police and that the maximum part of alleged 600 gram substance is not a contraband, but a white coloured wheat flour.

In support of his case, learned counsel for the petitioner relies upon the judgment rendered by the Hon'ble Supreme Court in Thana Singh Vs. Central Bureau of Narcotics', 2013(2) SCC 590.

I have heard the learned counsel for the petitioner and have also gone through the paper-book.

The perusal of the order passed by the learned Judge, Special Court, Sangrur, would itself reveal that after taking into consideration the law laid down by the Hon'ble Supreme Court in Thana Singh's case (supra), the application moved by the petitioner was dismissed. In Thana Singh's case (supra) it was held that any requests as to re-testing/re-sampling shall not be entertained under the Narcotic Drugs and Psychotropic Substances Act as a matter of course. These may, however, be permitted, in extremely exceptional circumstance, for cogent reasons to be recorded by the Presiding Judge. It was also noticed that the samples were taken in the presence of the learned Illaqa

Magistrate and the report of the Chemical Examiner, indicated that the seal was found intact on the samples.

As per the case of Thana Singh (supra), re-sampling may be permitted only in extremely exceptional circumstances. This Court finds that that there is no such exceptional circumstance in the present case, so as to grant the prayer of the petitioner. Hence the present petition is dismissed.

31.08.2022
Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No