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

**CRM-M No.22983 of 2024
Date of Decision: 06.08.2024**

Sunderpal Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Lupil Gupta, Advocate and
Mr. Nitish Sharma, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

1. Instant petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.60, dated 11.04.2024, under Section 22 of NDPS Act, 1985, Police Station Guruharsahai, District Ferozepur (Annexure P-1) along with all subsequent proceedings arising therefrom bring illegal and abuse and misuse of process of law and the Court. Further prayer has been made for staying the further proceedings arising out of the above said FIR during the pendency of the present petition.
2. As per facts of the case, the police party on receiving the secret information about the petitioner laid the barricade and thereafter the petitioner was apprehended and 450+70=520 tablets of Tramadol



Hydrochloride were recovered from him. As he failed to produce any licence regarding possession of the same, the FIR was registered and the petitioner was arrested in this case.

3. Learned counsel for the petitioner has contended that the petitioner is a young boy, who is a student of B.Sc Agriculture. He has submitted that the petitioner has been falsely implicated in this case under the political pressure. He submits that no photography or videography of the recovered articles at the site was conducted. He has submitted that on the basis of false and fabricated story, the petitioner has been falsely implicated in this case. He submits that the petitioner was arrested by the police and thereafter on account of his examination, he was granted interim bail. He has submitted that the petitioner has been implicated in a false case by the police so the FIR in question along with all subsequent proceedings arising therefrom are liable to be quashed. Learned counsel for the petitioner has relied upon the judgments passed by the Hon'ble Supreme Court in "*Vinay Tyagi vs. Irshad Ali @ Deepak and others*", **Crl. Appeal Nos.2040-2041 of 2012** (Para No.34) and "*Ajay Mitra vs. State of M.P. and others*", **2003(1) RCR (Criminal)674**.

4. Notice of motion.

5. On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondents-State. He has opposed the submissions made by learned counsel for the petitioner. He however at the outset has submitted that the allegations made by learned counsel for the petitioner are totally misconceived. He has



submitted that the investigation has been carried out by the Investigating Agencies in a free and fair manner and on completion of the same, the charge sheet under Section 173 Cr.P.C. has already been filed before the trial Court. He has submitted that after filing of the charge sheet, the learned trial Court has also framed the charges against the petitioner and now the case is fixed for recording of the evidence. He submits that the learned trial Court has already taken the cognizance of the offence on the basis of charge sheet filed by the Investigating Agencies. He has further submitted that the trial is in progress and at this stage, there is nothing on record to suggest that any false case has been registered against the petitioner and as such the present petition is liable to be dismissed.

6. Heard.

7. On hearing learned counsel for the parties and perusing the record, it is apparent that the petitioner was arrested in the present case on the basis of secret information received about him. As per the case of prosecution, on his search, 450+70=520 tablets of Tramadol Hydrochloride were recovered from him. The investigation of the case as submitted by learned counsel for the petitioner is already complete. The charge sheet has been filed under Section 173 Cr.P.C. and thereafter the trial Court has framed the charges as well and thus, the cognizance has already been taken by the trial Court and now the case as per the submissions made before this Court is fixed for the recording of the evidence. In all its humility, there is no dispute regarding the law settled by the Hon'ble Supreme Court in the judgments relied upon by learned



counsel for the petitioner, however in the facts and circumstances of the case, the same are distinguishable. The contentions raised by learned counsel for the petitioner are totally a matter of trial which can be appreciated by the trial Court on weighing the evidence led by both the sides.

8. The Apex Court in “*State of Haryana and others vs. Bhajan Lal and others*”, 1992 Supp(1) SCC 335 held as under:

“107 In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formula and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do



not disclose the commission of any offence and make out a case against the accused.

- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.*

108 *We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the Court will not be justified in embarking upon an enquiry as to the p reliability or genuineness or otherwise of the alleg~tions made in the F.I.R. or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice.”*

9. Thus, this Court does not find any merit in the present petition and the same is hereby dismissed. However the Court has not given any opinion on the merits of the case. The petitioner would be at



liberty to raise all his contentions before the learned trial Court at the appropriate stage in accordance with law.

06.08.2024
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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No