

121

THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.37901 of 2024
Date of Decision: 06.08.2024

Gurpreet Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. K. B. Raheja, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

1. Instant petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.33, dated 16.09.2023, under Section 21(C), 25 of NDPS Act, 1985 (Section 29 of NDPS Act has been added later on and present petitioner has been nominated), registered at Police Station SSOC, Fazilka, District Fazilka (Annexure P-1).
2. Succinctly the facts of the case are that when the police party was on patrolling, they spotted a motorcycle being driven by a clean shaven person. On suspicion, he was signalled to stop, however he tried to escape. SI with the help of other police officials stopped the motorcycle and apprehended the rider of the same. On inquiry, he disclosed his name as Tarsem Lal @ Soma. The police party suspected Tarsem Lal @ Soma to be carrying some contraband and thus gave an



offer for his search and the motorcycle. On his search, a parna/cloth was found tied on his waist and heroin was recovered from the same. On weighing the same, it was found to be 1 kg. He failed to produce any licence regarding the possession of the same and thus the FIR was registered and he was arrested by the police. On registration of the FIR, the investigation commenced. During the investigation, the disclosure statement of Tarsem Lal @ Soma was recorded on 18.09.2023 wherein he disclosed that his son Gurpreet Singh @ Gora against whom, the FIR case of heroin was already registered, had brought the heroin which he had to sell further. Thus the petitioner has also been arrayed as an accused in the present case. The petitioner has approached this Court praying for the quashing of the FIR.

3. It has been contended by learned counsel for the petitioner that neither the petitioner is named in the FIR nor any recovery has been effected from him. He has submitted that during the investigation of the FIR, the Investigating Agency has recorded the disclosure statement of Tarsem Lal @ Soma from whom the alleged recovery of 1 kg of heroin was made. He has submitted that on the basis of his disclosure statement, the petitioner has been arrayed as an accused in the present case. He submits that the only evidence against the petitioner is the disclosure statement of co-accused, which is not an admissible evidence. He submits that thus there being no evidence against the petitioner, his prosecution in the present FIR is nothing but an abuse of the process of the Court. He has relied upon the order passed by the Hon'ble Supreme Court in



“Sanuj Bansal vs. State of Uttar Pradesh and another”, Special Leave to Appeal (Crl.) No.10536 of 2023 and the judgment passed by this Court in *“Sucha Singh and another vs. State of Punjab”*, 2008(4) RCR (Criminal) 284. He has further relied upon *“Jugesh Sehgal vs. Shamsher Singh Gogi”*, reported as (2009)14 SCC 683 and has submitted that the power of the High Court under Section 482 Cr.P.C. deserves to be exercised in the facts and circumstances of the case.

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.

6. Heard.

7. On hearing learned counsel for the parties and perusing the record, it is deciphered that the police party while on patrolling recovered 1 kg of heroin from the co-accused, namely, Tarsem Lal @ Soma. The quantity recovered from the co-accused is commercial in nature. During the investigation, he made the disclosure statement dated 18.09.2023 wherein he disclosed about his son, namely, Gurpreet Singh @ Gora i.e. the petitioner by stating that the contraband recovered from him was supplied to him by his son Gurpreet Singh @ Gora. It was also disclosed that his son Gurpreet Singh @ Gora was also involved in another FIR for the similar offence. Thus it is evident that during the investigation, the *prima facie* complicity of the petitioner has been established. The Investigating Agency on finding the disclosure statement having been



corroborated by the other evidence on record apprehended the petitioner and on completion of investigation, the challan was presented before the trial Court. Admittedly the petitioner is involved in other case of the similar nature. There is no dispute regarding the abovesaid judgments relied upon by the petitioner but the same are distinguishable in view of the facts of the present case.

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. The petitioner is not only involved in the present case but he is also facing prosecution in another case of the similar nature. The

contentions raised by learned counsel for the petitioner are totally the matter of evidence which can be appreciated by the trial Court at an appropriate stage during trial.

10. 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.

(RAJESH BHARDWAJ)
JUDGE

06.08.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No