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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.39076 of 2024 (O&M)
Date of Decision: 12.08.2024

Parshottam Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Kanwar Arun Singh, Advocate with
Mr. Amit Choudhary, Advocate
for the petitioner.

Ms. Swati Batra, DAG, Punjab
(Through video conferencing).

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
234	04.10.2015	Cantonment, District Amritsar City	21, 61, 85 of NDPS Act, 1985

Seeking quashing of FIR captioned above alongwith all consequential proceedings arising therefrom, the petitioner has come up before this Court under Section 482, Cr.P.C.

2. Notice served upon the official respondent through State counsel.
3. The limited ground on which the petitioner had come up before this Court is that the alleged contraband which was recovered from the possession of petitioner does not find any intoxicant material during the examination by the FSL. Counsel for the petitioner refers the report of chemical examiner (Annexure P-5).
4. The facts of the case taken from the petition itself are that when the police officials were patrolling, they noticed two young boys who on seeing the police became perplexed, turned back and started brisk walking. This conduct of the boys raised suspicion in the eyes of police and both of them were apprehended. Then one boy on asking disclosed his name as Harkanwaljeet Singh @ Happy and second boy as Parshottam, the present petitioner. Subsequently, as per the investigator, the provisions

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of NDPS Act were allegedly complied with and 5 grams of heroin each was recovered from both of the persons.

5. Petitioner's counsel submits that later on the contraband which was allegedly recovered from the petitioner's pocket was not tested as heroin or any other substance as required under the provisions of NDPS Act, as per FSL report. He has referred to paragraph no.6(d) of the petition wherein he has reproduced the FSL report.

6. Counsel for the petitioner submits that he would be contented and satisfied that if he be permitted to file discharge application before the trial Court and the trial Court before framing of the charges consider that he cannot be charged for the reasons that the petitioner has not committed any offence. Petitioner's counsel further submits that the petitioner is a resident of Australia and he be permitted to appear through his counsel till the disposal of his application for discharge and he will not claim prejudice in this regard.

7. In the entirety of fact and circumstances, and more particularly the fact that the laboratory probably did not find the substance as an intoxicant under the provisions of NDPS Act, 1985, the present petition is **disposed of** with liberty to the petitioner to file an application for discharge before the trial Court, if such application is filed, the trial Court shall decide the same in accordance with law. Till disposal of the said application, the petitioner is exempted from personal appearance, subject to the condition that his counsel shall appear on his behalf on each and every date and shall not seek any unnecessary adjournment. It is further clarified that he shall not claim any prejudice at any stage of proceedings on the ground that he was not present in person before the Court. All pending application(s), if any, stand disposed of.

8. Liberty reserved to the petitioner to come up before this Court to challenge the charges if framed.

(ANOOP CHITKARA)
JUDGE

12.08.2024

Sonia Puri

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No.