

**CRM-M-58987-2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.****Sr. No.128****Case No. : CRM-M-58987-2024****Decided On : November 26, 2024**

Avtar Singh Petitioner

vs.

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Naresh Gopal Sharma, Advocate
for the petitioner.

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GURBIR SINGH, J. :

1. Prayer in the present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) Act, 2023 is for quashing the FIR No.71 dated 14.04.2022, under Sections 21, 23, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as – NDPS Act), registered at Police Station Special Task Force (STF), District STF Wing (Annexure P-1).

2. Learned counsel for the petitioner has argued that the petitioner was not named in the FIR. No recovery was effected from the petitioner and rather, he has been implicated in this case on the basis of political rivalry. It has further been informed to this Court that the petitioner has been granted concession of regular bail by a Co-ordinate Bench of this Court vide order dated 16.01.2023 passed in **CRM-M-49228-2022**. There is no evidence against the petitioner. Learned counsel for the petitioner has relied on case



titled Ramkumar Sharma and Ors. vs. State of MP and Anr. - MCRC 16298 of 2021, decided on 11.03.2022 by Gwalior Bench of the High Court of Madhya Pradesh and also on case titled YashVamya vs. State of Madhya Pradesh and Anr. - Misc. Criminal Case No.45261 of 2023, decided on 25.01.2024 by High Court of Madhya Pradesh at Indore. Prayer of quashing of FIR has been reiterated.

3. I have heard the submissions of learned counsel for the petitioner and have gone through the case file.

4. The case in question was registered on the basis of secret information against Kulwinder Singh @ Gaggu and Ajay Singh @ Gargi. Five packets of heroin weighing 01 kg and 650 grams was recovered. On the basis of information imparted, petitioner was also nominated in this case. As per allegations, the petitioner was involved in the smuggling of recovered heroin from the field of Sukhwinder Singh. Adjoining to the said filed, petitioner had taken the land on lease. On 19.04.2022, petitioner and both the co-accused were arrested. Both the co-accused made separate disclosure statements and got recovered 500 grams of heroin each from their respective exclusive possession.

5. It is a case of cross border smuggling of heroin. In this case, 2650 grams of heroin was recovered. More than 250 grams of heroin is commercial quantity. Recovery of heroin in this case is very large. As per allegations against the petitioner, he used to smuggle heroin and he used to facilitate the co-accused in crossing the border for the business of heroin.

There are serious allegations against the petitioner that he abetted the co-



accused in committing the crime in question. NDPS Act (Act No.61 of 1985) is a special Act enacted with the object of meeting the unprecedented challenge of illicit traffic in narcotic drugs and psychotropic substances. The menace of drug is eating the basic fabric of the Society. More and more youngsters are becoming drug addicts. It is crime against Society at large. The Court is not supposed to hold the mini trial for considering whether the criminal proceedings under Section 482 Cr.P.C. are liable to be quashed. The charges are required to be proved during the trial on the basis of evidence led by the prosecuting agency. The prosecution is yet to lead evidence. In case titled **State of Haryana vs. Bhajan Lal – AIR 1992 SC 604**, it is observed by the Hon'ble Supreme Court that the power of quashing criminal proceedings should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. This was again reiterated by Hon'ble Supreme Court in case **Dhruvaram Murlidhar Sonar vs. State of Maharashtra – AIR 2019 SC 327**. In case **State of A.P. vs. Vangaveeti Nagaiah – AIR 2009 Supreme Court 2646**, it is held by Hon'ble Supreme Court, while exercising jurisdiction under Section 482 Cr.P.C., the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. The authorities cited by the counsel for the petitioner are with regard to matrimonial offence and cyber fraud and are of no help to the petitioner.

6. Keeping in view the recovery of huge quantity of heroin, the prosecution must be given opportunity to prove the charge against the

petitioner/accused and co-accused by leading the evidence. In view of the above discussion, this Court is of the view that the FIR in question needs proper trial and cannot be quashed qua the petitioner at this stage. So, the present petition is without any merit and is accordingly dismissed in limine.

7. However, nothing observed herein above shall be construed to be an expression of opinion on the merits of the case. The observations recorded above are only for the purpose of deciding the present petition.

8. Pending applications, if any, shall stand disposed of along with this judgment.

November 26, 2024

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(GURBIR SINGH)

JUDGE

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