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

CRR No.152 of 2025 (O&M)

Date of decision : 29.01.2025

Navdeep Singh

.....Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Dr. Rau P. S. Girwar, Advocate;
Ms. Arachana Arora Rau, Advocate and
Mr. K. T. Rau, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

1. The petitioner has approached this Court praying for impugning order dated 19.11.2024 passed by the learned Judge, Special Court, Bathinda whereby the learned trial Court has framed the charges against the petitioner for the offences under Section 21(b)/29 of NDPS Act.

2. As per the facts of the case, on 21.01.2023, the police party was on patrolling. It was alleged that when they reached the Bhakta Sarewala road, they noticed 02 young men walking near the transformer on the left side of the road holding a packet. Under suspicion, they were stopped and with the help of colleagues, both were apprehended. On asking, they disclosed their names as Vanjara Singh and Lakhan. The packet found in their possession was examined and on examination of the



same, it was found to be containing heroin. They were given notice under Section 50 of NDPS Act and thereafter their search was conducted. The recovered contraband was on weighing found to be 70 grams of heroin. As they failed to produce any licence regarding the possession of the same, hence the FIR was registered and both were arrested. On registration of the FIR, the investigation commenced. During the investigation, statement of co-accused, Amandeep Singh was recorded and complicity of the petitioner and other co-accused was found in the present case. Hence vide GD No.023, dated 23.01.2023, the petitioner was also arrayed as an accused in the present case and the offence under Section 29 of NDPS Act was also added. On completion of the investigation, the challan was presented under Section 173 Cr.P.C. The learned trial Court on the basis of challan presented, heard all the accused including the petitioner and framed the charges against them vide impugned order dated 19.11.2024. Hence being aggrieved the petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. He has submitted that the alleged contraband of 70 grams of heroin was recovered from co-accused, namely, Vanjara Singh and Lakhan, however on the basis of disclosure statement made by co-accused, namely, Amandeep Singh, the petitioner was arrayed as an accused in the present case vide GD No.23, dated 23.01.2023. It has been submitted by learned counsel for the petitioner that on the basis of 02 transactions between Amandeep Singh and Jaspreet Singh, the petitioner



has been falsely nominated in the present case. He has submitted that the evidence against the petitioner is only the disclosure statement of co-accused, Amandeep Singh. He has relied upon the judgments passed by the Hon'ble Supreme Court of India in "***Sanjeev Chandra Agarwal and another vs. Union of India***", 2021(4) RCR (Criminal) 590 and "***Surinder Kumar Khanna vs. Intelligence Officer Directorate of Revenue Intelligence***", 2018(3) RCR (Criminal) 954 and by this Court in "***Jagtar Singh vs. State of U.T., Chandigarh***", 2023(4) RCR (Criminal) 602 and thus has submitted that no *prima facie* case is made out against the petitioner but the learned trial Court in violation of the law settled has passed the impugned order framing the charges against the petitioner and the said order is being unsustainable in the eyes of law, deserves to be set aside.

4. Learned State counsel on the other hand has opposed the submissions made by learned counsel for the petitioner. He has submitted that though the petitioner was not named in the FIR, however during the investigation, his complicity was established in the present case. A transaction in the bank account of co-accused has also been found which *prima facie* proves the complicity of the petitioner. He has submitted that at the time of framing of charges, the Court is to assess from the material produced whether any *prima facie* case is made out against the petitioner or not. He has thus submitted that the impugned order suffers from no illegality and hence the present petition deserves to be dismissed.

5. Heard.



6. On hearing learned counsel for the parties and perusing the record, it is deciphered that 70 grams of heroin was recovered from co-accused, Vanjara Singh and Lakhan. Though the petitioner was not named in the FIR, however during the course of investigation, complicity of the petitioner and other accused was established in the present case, who were found to be the purchaser of the contraband. The transactions in the bank account were also verified by the Investigating Agencies and thereafter, the challan was presented under Section 173 Cr.P.C. A perusal of challan would show that the same has been filed against the accused, namely, Vanjara Singh, Lakhan, Jaspreet Singh, Navdeep Singh i.e. petitioner and Balraj Singh. However, Balraj Singh could not be arrested at the time of filing the challan and hence it was mentioned in the challan that the supplementary challan would be presented against him on his arrest.

7. Needless to say that at the time of framing of the charges, the learned trial Court is not to sift the evidences but to find out whether on the basis of material placed before it any *prima facie* case is made out against the accused or not. The trial Court found the material produced to be sufficient for framing the charges.

8. Hon'ble the Supreme Court in ***Bhawna Bai Vs. Ghanshyam, 2020(1) RCR (Criminal) 370*** has held as under:-

“12. Though the circumstances alleged in the charge sheet are to be established during the trial by adducing the evidence, the allegations in the charge sheet show a prima facie case against the accused-respondent Nos.1 and 2. The circumstances alleged by the prosecution indicate that there are sufficient grounds for proceedings against the accused. At the time of framing the charges, only prima facie case is



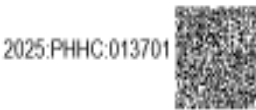
to be seen; whether case is beyond reasonable doubt, is not to be seen at this stage. At the stage of framing the charge, the court has to see if there is sufficient ground for proceeding against the accused. While evaluating the materials, strict standard of proof is not required; only prima facie case against the accused is to be seen.”

9. Hon'ble Division Bench of the Supreme Court in *Manendra Prasad Tiwari Vs. Amit Kumar Tiwari, 2022 SCC Online SC 1057*, has held as under:-

“22. The scope of interference and exercise of jurisdiction under Section 397 of CrPC has been time and again explained by this Court. Further, the scope of interference under Section 397 CrPC at a stage, when charge had been framed, is also well settled. At the stage of framing of a charge, the court is concerned not with the proof of the allegation rather it has to focus on the material and form an opinion whether there is strong suspicion that the accused has committed an offence, which if put to trial, could prove his guilt. The framing of charge is not a stage, at which stage the final test of guilt is to be applied. Thus, to hold that at the stage of framing the charge, the court should form an opinion that the accused is certainly guilty of committing an offence, is to hold something which is neither permissible nor is in consonance with the scheme of Code of Criminal Procedure.”

10. The judgments relied upon by learned counsel for the petitioner are distinguishable on the facts and circumstances of the present case.

11. Thus, this Court does not find any infirmity in the impugned order passed and hence the present petition is hereby dismissed. However



it is being clarified that nothing said hereinabove shall be treated as an expression of opinion on the merits of the case. Pending application, if any, also stands dismissed.

29.01.2025
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(RAJESH BHARDWAJ)
JUDGE

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