



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

129

CRM-M-6472-2025

Date of decision: 04.02.2025

Kishori Lal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Sonal Gupta, Advocate and
Mr. Akinchan Aggarwal, Advocate for the petitioner.

MANJARI NEHRU KAUL, J.

1. The petitioner has approached this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS')/482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.'), seeking quashing of the FIR No.22 dated 24.01.2025 (Annexure P-1), registered against him under Sections 109(1), 121(1), 122(1), 132, 324(4) of the Bharatiya Nyaya Sanhita, 2023 and Section 15(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Ding, Sirsa.

2. The principal contention advanced by learned counsel for the petitioner is that the petitioner has been falsely implicated, as he was neither present at the scene of the alleged crime nor had any connection with the vehicle from which the contraband was allegedly recovered. The only alleged link between the petitioner and the contraband is the recovery of a photocopy of his PAN and Aadhaar Card from the said vehicle. It is submitted that this recovery is highly



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dubious, as no independent witness was present to corroborate the recovery process. Furthermore, it is argued that the mere recovery of the petitioner's identity documents in the vehicle, does not establish his conscious possession of the contraband (75 kgs 230 grams of poppy husk), which is an essential ingredient for constituting an offence under the NDPS Act.

3. It is further contended that the FIR is vitiated for non-compliance with the mandatory provisions of Section 42 of the NDPS Act, as there is no material on record to indicate that the police had recorded the purported secret information prior to conducting the search and recovery. Additionally, the absence of independent witnesses during the recovery raises serious doubts regarding the case of prosecution. Learned counsel has still further emphasized that the version of the prosecution, particularly the allegation that the petitioner attempted to flee while leaving behind his identity documents, is inherently improbable and appears to be a fabrication. On this grounds, it is urged that the continuation of criminal proceedings against the petitioner would amount to an abuse of the process of law, thereby necessitating quashing of the FIR in question.

4. I have heard learned counsel for the petitioner and perused the relevant material on record.

5. At the outset, it is pertinent to note that the investigation in the instant case is still underway, a fact not disputed by learned counsel for the petitioner. The issues raised by the learned counsel for the petitioner primarily relate to disputed questions of facts, such as his



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alleged absence from the scene of crime and the authenticity of the recovery of his identity documents. These are matters requiring appreciation of evidence, which cannot be undertaken in proceedings under Section 528 of the BNSS/482 of the Cr.P.C.

6. It is well settled that the inherent jurisdiction of this Court under Section 528 of the BNSS/482 of the Cr.P.C. is to be exercised sparingly and with great caution. Hon'ble the Supreme Court in ***State of Haryana and others Vs. Ch. Bhajan Lal and others (1992 AIR SC 604)*** has laid down the parameters within which an FIR can be quashed under Section 528 of the BNSS/482 of the Cr.P.C. This Court may intervene in exceptional cases where : (i) the allegations in the FIR do not prima facie constitute any offence or make out a case against the accused; (ii) the FIR is manifestly attended with malafides or malicious intent to implicate a person falsely; (iii) the criminal proceedings amount to an abuse of the process of law.

7. However, at the stage of investigation of an FIR, this Court cannot be expected to evaluate the correctness of the allegations or the reliability of the evidence. The jurisdiction under Section 528 of the BNSS/482 of the Cr.P.C. is not to be exercised as a substitute for trial proceedings but only in cases where the allegations, even if taken at face value, do not disclose any cognizable offence.

8. In the instant case, the allegations in the FIR indicate a purported link between the petitioner and the vehicle in question, albeit through the recovery of identity documents. Whether this link is sufficient to establish the involvement of the petitioner is a matter to be

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determined during the investigation or later during trial. The mere presence of disputed facts does not justify the exercise of inherent jurisdiction of this Court to quash the FIR at this stage. It also needs to be reiterated as has also been repeatedly reiterated by Hon'ble the Supreme Court that Courts must be slow to interfere with an ongoing investigation unless the FIR and accompanying material completely fail to make out any offence. The role of the accused, if any, should be ascertained through due process of investigation rather than premature intervention by Courts.

9. In view of the foregoing discussion, and considering that the investigation is still pending, no exceptional case is made out for invoking the inherent jurisdiction of this Court under Section 528 of the BNSS/482 of the Cr.P.C. to quash the FIR.

10. Accordingly, the instant petition is hereby dismissed. The petitioner shall, however, be at liberty to avail the remedies available under law at an appropriate stage, including during trial, if so advised.

11. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

04.02.2025

Vinay

**(MANJARI NEHRU KAUL)
JUDGE**

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