



209

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

**CRM-M No.27868 of 2024 (O&M)
Date of Decision : 29.11.2025**

Akashdeep Singla

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Vikram Chaudhri, Senior Advocate with
Ms. Diya Bhagwan, Advocate and
Mr. Rishabh Tiwari, Advocate
for the petitioner.

Mr. Raj Karan Singh, Asstt. A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

CRM-27934-2025

Allowed as prayed for. Documents, Annexures P-37 to P-39
are ordered to be taken on record.

CRM-M-27868-2024

1. Present petition has been filed praying for quashing of
impugned orders dated 26.09.2023, 16.10.2023, 30.11.2023, 06.01.2024,
06.02.2024, 28.03.2024 along with all subsequent proceedings arising
therefrom. Further prayer has been made for staying the operation of
abovesaid impugned orders during the pendency of the present petition.

2. It has been contended by learned Senior counsel for the
petitioner that the petitioner has been falsely prosecuted in FIR No.058,

dated 24.04.2023, under Section 22 of NDPS Act, 1985, registered at



Police Station City-1, Malerkotla. He has submitted that the petitioner is a registered and licenced pharmacist, who runs a pharmacy store, namely, M/s Sai Medical Store under the requisite licence issued by the office of Drugs Control, Sangrur Circle. He has further submitted that the petitioner was not named in the FIR, however he has been named on the basis of disclosure statement of co-accused, namely, Mohd. Tahir. He has submitted that the petitioner was severely ill and has undergone treatment for Paraumbilical swelling and when he was operated upon and a surgery procedure of 'Lap Hernioplasty and Adhesiolysis and was advised complete bed rest for a period of 06 weeks by the doctors. He has submitted that the challan was filed on 10.07.2023 against the accused persons, however name of the petitioner was kept in Col. No.2. He has submitted that the petitioner was nominated as an accused by adding the offence under Section 29 of NDPS Act alleging that all the accused including the petitioner together in connivance with each other supplied the intoxicant tablets. He has submitted that the petitioner moved a representation to the DGP, Punjab on 28.07.2023, however the investigating agencies obtained warrants of arrest from Sub Divisional Judicial Magistrate on 26.09.2023. He has submitted that the Magistrate was not competent to issue warrants in view of the bar contained in Section 36-A(1)(b) NDPS Act, which clearly stipulates that when a person accused of an offence under the Act is forwarded to the Magistrate under the provisions of Section 167 of Cr.P.C, the magistrate may authorize the detention of accused in custody for a period not exceeding 15 days and apart from this, the Magistrate has no power to entertain any other request from the Investigating Agency like issuance of warrants. He has submitted



that even if the Court had taken cognizance against the petitioner on the basis of the challan, only notice/summons could have been issued to him but under no circumstances NBWs could have been issued that too by a Court which is *coram non judice*. On such illegal basis, petitioner was declared a proclaimed person on 28.03.2024. He has submitted that apprehending his arrest, the petitioner approached the Court of learned Judge, Special Court, Sangrur praying for the grant of bail, however after hearing both the sides and finding no merit in the same, the learned Judge, Special Court, Sangrur declined the bail application filed by the petitioner vide order dated 11/12.01.2024. Being aggrieved, the petitioner filed CRM-M-3825-2024 before this Court praying for the grant of pre-arrest bail, however the same was also dismissed by this Court vide order dated 20.03.2024. He has submitted that Court cannot issue warrants of arrest as held by the Hon'ble Supreme Court in '*M.C. Abraham and another vs. State of Maharashtra*' (2003)1 RCR (CrI.) 252. He has further submitted that confession of co-accused in custody cannot be treated as substantive evidence. To buttress his arguments, he has relied upon various judgments passed in '*Tofan Singh vs. State of Tamil Nadu*', (2013) 16 SCC, 31, '*Haricharan Kurmi vs. State of Bihar*' (1964) SCC online SC 28, '*Surinder Kumar Khanna vs. Directorate of Revenue Intelligence*', (2018) 8 SCC 271, '*Sanjeev Chandra Agarwal and another vs. Union of India*' (2021) SCC online SC 1268, '*State by (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta and another*' 2022 SCC Online SC 47, '*Happy Singh Sanjay vs. State of Haryana*' CRM-M-50732-2024, '*Yousuf vs. State of Kerala*' 2021 SCC Online Ker 851 and '*Phundreimayum Yas Khan vs. State (NCT of Delhi)*', 2023 SCC Online



Del 135. He has further submitted that no warrants could have been issued in the aid of investigation and as per Section 73 Cr.P.C., though a warrant could be issued at the stage of an investigation, but in view of settled position of law, it can certainly not be issued for the 'aid of investigation' and the issued is covered by following judgments, i.e. '*State through CBI vs. Dawood Ibrahim Kaskar*', (2000) 10 SCC 438, '*Raghuvansh Dewachand Bhasin vs. State of Maharashtra*', (2012) 9 SCC 791, '*Gurjeet Singh Johar vs. State of Punjab*', 2020(1) RCR (Criminal) 344, '*Narayan @ Narayan Sai @ Mota Bhagwan s/o Ashram Bapu vs. State of Gujarat*' in Special Criminal Application No.3366 of 2013, '*Inder Mohan Goswami and another vs. State of Uttranchal and others*' 2007(4) RCR (Criminal) 548 and '*M.C. Abraham and another vs. State of Maharashtra and others*', 2003(1) RCR (Criminal) 452. He has submitted that in the meantime, non bailable warrants were issued against the petitioner and thus, vide order dated 28.03.2024, the petitioner was declared as proclaimed person. He has submitted that the order declaring the petitioner as proclaimed person is in violation of the provisions of Section 82 of Cr.P.C. He has submitted that the petitioner was never issued the summons nor any notice was ever served to the petitioner. He has submitted that the petitioner is ready to surrender and face the trial. He has thus submitted that the impugned orders being unsustainable in the eyes of law, deserve to be set aside. He has submitted that the petitioner be granted protection for appearing before the trial Court.

3. Learned counsel for the State has opposed the submissions made by learned counsel for the petitioner. He has submitted that the petitioner has rightly declared as proclaimed person, who remained absent



from the Court for almost 03 years despite the reason that his anticipatory bail application has already been dismissed by the Sessions Court as well as by this Hon'ble Court.

4. Heard.

5. After hearing counsel for the parties and perusing the record, it is apparent that the petitioner was prosecuted in FIR No.058, dated 24.04.2023, under Section 22 of NDPS Act, 1985, registered at Police Station City-1, Malerkotla. However, the petitioner remained absent as he was never served with any notice of proclamation under Section 82 of Cr.P.C. and thereafter he was declared as proclaimed person. As submitted by learned counsel for the petitioner that the petitioner is ready to surrender before the Court and face the trial. Without commenting anything about the authenticity of the ground of absence taken by the petitioner, this Court proceeds to decide the matter as now the petitioner is ready and keen to join the proceedings. So keeping in view the abovesaid facts, the present petition is disposed of and the impugned orders dated 26.09.2023, 16.10.2023, 30.11.2023, 06.01.2024, 06.02.2024, 28.03.2024 along with all subsequent proceedings arising therefrom are hereby *set aside* subject to payment of costs of Rs.5,00,000/- (**Rs.1,00,000/- to be paid to the Punjab and Haryana High Court Bar Association, Chandigarh, Rs.2,00,000/- to be paid to the High Court Employees' Welfare Association, Chandigarh, Rs.1,00,000/- to be paid to the Society for the Care of Blind, Sector 26, Chandigarh and Rs.1,00,000/- to be paid to the Spinal Rehab Centre, Sector 28-A, Madhya Marg, Chandigarh**) within a period of 07 days from the date of receipt of certified copy of this order. The petitioner is directed to appear before the



trial Court within a period of 10 days from the date of receipt of certified copy of this order and files appropriate application along with the receipt of deposit of above-said costs, then the trial Court will admit him to bail subject to its satisfaction during the pendency of trial and proceed with the trial as per law. Petitioner will have protection from arrest for a period of 10 days from the date of receipt of certified copy of this order.

6. Needless to say that in case the petitioner fails to comply with the abovesaid direction within the stipulated period, he have no benefit of this order and the impugned orders dated 26.09.2023, 16.10.2023, 30.11.2023, 06.01.2024, 06.02.2024, 28.03.2024 would stand automatically revived and the present petition shall be deemed to have been dismissed.

7. Disposed of in above terms.

29.11.2025

rittu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(RAJESH BHARDWAJ)

JUDGE