

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

Sr. No.: 120

Criminal Miscellaneous No.M-44791 of 2025**Date of Decision:** *August 21, 2025*Himanshu

..... PETITIONER(S)

*VERSUS*State of Haryana

..... RESPONDENT(S)

CORAM: **HON'BLE MR. JUSTICE SUBHAS MEHLA****PRESENT:** - Mr. Abhimanyu Batra, Advocate, for the petitioner.Mr. Karan Veer Singh, Senior Deputy Advocate General,
Haryana.**SUBHAS MEHLA, J**

The petition has been filed under Section 482 Cr.P.C. for quashing order dated 31.07.2025 passed by the District & Sessions Judge, Jind whereby order dated 01.07.2025 passed by the Chief Judicial Magistrate, Jind has been set aside and arrest of the petitioner held to be legal and he has been ordered to surrender before the Chief Judicial Magistrate, Jind on or before 11.08.2025.

2. Contention of learned counsel for the petitioner is that no proper procedure has been followed by the Drugs Control Officer (for short, 'DCO'), Jind. No grounds of arrest had been provided at the time of petitioner's arrest. Petitioner has been falsely involved in this case due to biasness and grudge towards him. Learned Chief Judicial Magistrate has rightly held his arrest illegal but the revisional Court has not appreciated the proposition of law and facts of the case, and thus, prayed for acceptance of the present petition.

3. Learned State counsel has opposed the prayer made in the petition and submitted that Drug Inspector has power to arrest an accused. To fortify his contention, he has relied upon **Union of India v. Ashok Kumar**



Sharma & others, 2023 (1) SCC (Cri.) 565, to contend that in regard to cognizable offences under Chapter IV of the Act, in view of Section 32 of the Drugs and Cosmetics Act, 1940 (for short, ‘1940 Act’) and also the scheme of the CrPC, the Police Officer cannot prosecute offenders in regard to such offences. Only the persons mentioned in Section 32 are entitled to do the same.

4. Heard.

5. Brief facts of the case are that present petitioner was given a show cause notice to put up his explanation regarding the drugs which were seized by the DCO from M/s JMB Medicos, Shop No.2, Opposite Umrao Hotel, Safidon Gate, Jind, which were supplied by the petitioner, proprietor of M/s H.M. Medicare, Rohtak, but he failed to put up any plausible explanation and during investigation the drugs were found to be spurious. The petitioner was arrested in this case, but his arrest was held to be illegal vide order dated 01.07.2025, and same was challenged before the revisional Court. The revision petition was accepted vide order dated 31.07.2025 by the learned Sessions Judge, Jind. Order dated 01.07.2025 was set aside and petitioner was directed to surrender before the learned Chief Judicial Magistrate, Jind, on or before 11.08.2025.

5. Before proceeding further, relevant provisions of 1940 Act are being reproduced hereunder:

“22. Powers of Inspectors.—(1) Subject to the provisions of section 23 and of any rules made by the Central Government in this behalf, an Inspector may, within the local limits of the area for which he is appointed,—

(a) inspect,—



(i) any premises wherein any drug or cosmetic is being manufactured and the means employed for standardising and testing the drug or cosmetic;

(ii) any premises wherein any drug or cosmetic is being sold, or stocked or exhibited or offered for sale, or distributed;

(b) take samples of any drug or cosmetic, —

(i) which is being manufactured or being sold or is stocked or exhibited or offered for sale, or is being distributed;

(ii) from any person who is in the course of conveying, delivering or preparing to deliver such drug or cosmetic to a purchaser or a consignee;

(c) at all reasonable times, with such assistance, if any, as he considers necessary,—

(i) search any person, who, he has reason to believe, has secreted about his person, any drug or cosmetic in respect of which an offence under this Chapter has been, or is being, committed; or

(ii) enter and search any place in which he has reason to believe that an offence under this Chapter has been, or is being, committed; or

(iii) stop and search any vehicle, vessel or other conveyance which, he has reason to believe, is being used for carrying any drug or cosmetic in respect of which an offence under this Chapter has been, or is being, committed,

and order in writing the person in possession of the drug or cosmetic in respect of which the offence has been, or is being, committed, not to dispose of any stock of such drug or cosmetic for a specified period not exceeding twenty days, or, unless the alleged offence is such that the defect may be removed by the possessor of the drug or cosmetic, seize the stock of such drug or cosmetic and any substance or article by means of which the offence has been, or is being, committed or which may be employed for the commission of such offence;

(cc) examine any record, register, document or any other material object found with any person, or in any place, vehicle, vessel or other conveyance referred to in clause (c), and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder;



(cca) require any person to produce any record, register, or other document relating to the manufacture for sale or for distribution, stocking, exhibition for sale, offer for sale or distribution of any drug or cosmetic in respect of which he has reason to believe that an offence under this Chapter has been, or is being, committed;

(d) exercise such other powers as may be necessary for carrying out the purposes of this Chapter or any rules made thereunder.

27. Penalty for manufacture, sale, etc., of drugs in contravention of this

Chapter.—Whoever, himself or by any other person on his behalf, manufactures for sale or for distribution, or sells, or stocks or exhibits or offers for sale or distributes,—

(a) any drug deemed to be adulterated under section 17A or spurious under section 17B and which when used by any person for or in the diagnosis, treatment, mitigation, or prevention of any disease or disorder is likely to cause his death or is likely to cause such harm on his body as would amount to grievous hurt within the meaning of section 320 of the Indian Penal Code (45 of 1860) solely on account of such drug being adulterated or spurious or not of standard quality, as the case may be, shall be punishable with imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than ten lakh rupees or three times value of the drugs confiscated, whichever is more:

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32. Cognizance of offences—1[(1) No prosecution under this Chapter shall be instituted except by—

(a) an Inspector; or

(b) any gazetted officer of the Central Government or a State Government authorised in writing in this behalf by the Central Government or a State Government or by a general or special order made in this behalf by that Government; or

(c) the person aggrieved; or

(d) a recognised consumer association whether such person is a member of that association or not.



(2) Save as otherwise provided in this Act, no court inferior to that of a Court of Session shall try an offence punishable under this Chapter.

(3) Nothing contained in this Chapter shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Chapter.”

6. It is clear from the facts of the case that offence in question was punishable under Section 27(a) of the 1940 Act as it was a spurious drug and provides punishment which shall not be less than ten years. As per Section 32 of the Act *ibid*, no prosecution under this Chapter shall be instituted except by an Inspector or any gazetted officer of the Central Government or a State Government authorized by the Central Government or a State Government. The complainant in this case is a Drug Control Officer who was duly authorized to unveil a complaint and since offence in question was cognizable, he was well within her rights to arrest the petitioner on account of sale of spurious drugs.

7. The Supreme Court in case **Union of India** (*supra*) held that in regard to cognizable offences under Chapter IV of the Act, in view of Section 32 of the 1940 Act and also the scheme of the Cr.P.C., the Police Officer cannot prosecute offenders in regard to such offences and only the persons mentioned in Section 32 are entitled to do the same. It has been further held that having regard to the provisions of Section 22(1)(d) of the Act, an arrest can be made by the Drug Inspector in regard to cognizable offences falling under Chapter IV of the Act without any warrant and otherwise treating it is a cognizable and non-bailable offence. As such, the complainant was well



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within the rights to arrest the petitioner and his arrest cannot be termed as illegal.

8. In view of aforesaid discussion, the revisional Court was right in setting aside the order passed by the learned Chief Judicial Magistrate. Resultantly, finding no merit in the petition, the same is dismissed.

(SUBHAS MEHLA)
JUDGE

August 21, 2025
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No