



S. No.123

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45858 of 2025
Date of Decision:25.08.2025

Parvinder Singh
Vs.
State of Haryana

.....Petitioner

.....Respondent

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Mr. Nikhil Ghai, Advocate and
Mr. Armaan Singh, Advocate
for the petitioner.
Mr. Ramesh Kumar Ambavta,
DAG, Haryana.

Yashvir Singh Rathor, J. (Oral)

1. The present petition is instituted against the order framing charge dated 09.05.2024 in case FIR No.258 dated 13.05.2022 registered under Sections 18 and 29 of Narcotic Drugs and Psychotropic Substances Act (for short, 'the NDPS Act') at Police Station City Thanesar, District Kurukshetra, final report under Section 173(2) Cr.P.C presented on 30.05.2022 and order framing charge dated 09.05.2024 and charge-sheet dated 09.05.2024 being illegal and abuse of the process of the law.
2. Upon notice, the State Counsel has appeared and has opposed the prayer made in the petition. Both the parties have been heard and material placed on the file has been perused.
3. Brief facts of the prosecution case are that one complaint was submitted to the Incharge of Police Post Sector 7, Kurukshetra by ASI Subhash Chand who alleged that he was posted on duty in Police Station Babain and on



13.05.2022, he had come to District Court, Kurukshetra along with escort guard for producing accused. Escort guard In-charge Shish Pal had deputed him and SPO Jarnail Singh to produce one under-trial Parwinder Singh in the Court of Judicial Magistrate at Kurukshetra. When they were taking said Parwinder to the Court through gallery of the old building of the Court, one Sikh boy tried to give some material wrapped in polythene to accused Parwinder Singh but he caught that boy along with the polythene pouch, which he was holding in his hand. On checking, it was found to be opium and that boy disclosed his name as Gurpreet Singh son of Hartej Singh and, thereafter, he produced the opium pouch and Gurpreet Singh before the Incharge, Police Post Sector 7, Kurukshetra. On measuring, the opium was found to be 1 gram 200 milligrams together with polythene. The same was sealed and converted into parcel and after completion of usual formalities, final report under Section 173 Cr.P.C has been presented. On interrogation, accused Gurpreet Singh has disclosed that petitioner – Parwinder is his relative who was lodged in jail and he had come to meet him. Said Parwinder also takes opium occasionally for medicinal purposes and he had tried to pass over the opium to him but was apprehended. As such, as per the allegations in the FIR, prima-facie offence punishable under Sections 18 and 29 of the NDPS Act is made out. The present petitioner has been nominated as an accused not only on the disclosure statement of co-accused Gurpreet Singh but said Gurpreet Singh was apprehended while he was trying to hand over the contraband to Parwinder Singh who was in the custody of escort guard. As such, there is no material available at this stage to come to the conclusion that no offence under Section 29 of the NDPS Act is made out against the petitioner.



4. However, the learned trial Court after submission of the final report has framed the charge against both the accused as under:-

“That on 13.05.2022, in the area of falling under the jurisdiction of Police Station City Thanesar, you accused Parvinder was found in conscious possession of 1 gram 200 m.g of opium without any permit or license and you thereby committed an offence punishable under Section 18 of NDPS Act, 1985 and within my cognizance.

That during the abovesaid period, you accused Gurpreet Singh supplied opium to co-accused Parvinder and thereby committed an offence punishable under Section 29 of NDPS Act, 1985 and within my cognizance.

And, I hereby direct you the above named accused that you be tried by this court on the above said charge.”

Chief Judicial Magistrate,
Kurukshetra 09.05.2024”

5. A perusal of the afore-said charge-sheet shows that present petitioner – Parwinder Singh has been charged under Section 18 of the NDPS Act for keeping in his conscious possession 1 grams 200 miligrams of opium but infact he was not found in possession of any opium and only co-accused Gurpreet Singh was trying to pass over the same to him and as such, no offence under Section 18 of the NDPS Act is made out against accused Parwinder. Rather, offence under Section 18 of the NDPS Act is made out only against accused Gurpreet Singh who has not been charged under Section 18 of the NDPS Act and said Gurpreet Singh has been charged under Section 29 of the NDPS Act for supplying opium to co-



accused Parwinder. As such, accused – Gurpreet Singh is liable to be charged under Section 18 of the NDPS Act as well as for the offence under Section 29 of the NDPS Act being a party to the criminal conspiracy to commit an offence punishable under the said Act while accused- Parwinder is liable to be charged only for the offence under Section 29 of the NDPS Act. However, learned trial Court has not appreciated the material on file and the facts of the case in the correct perspective while framing the charge and the order dated 09.05.2024 whereby charge has been framed is hereby set aside and the Court of Chief Judicial Magistrate is directed to frame the charge afresh in the light of the observations made above and petition is accordingly disposed of.

(Yashvir Singh Rathor)
Judge

August 25, 2025
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No