



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

117+209

CRM-M-55016-2018 (O&M)

Decided on : 17.03.2025

Ashok Kumar

... Petitioner(s)

Versus

State of Haryana and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Hardeep Singh Dhillon, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana
assisted by Mr. Hemant Grover,
Drugs Control Officer, FDA, Ambala.

SANJAY VASHISTH, J. (Oral)**CRM-2361-2025**

I. This is an application filed u/s 528 of BNSS, 2023, for placing on record the written submissions of the applicant-petitioner along with Annexures P-7 & P-8.

II. Allowed as prayed for. Written submissions of the applicant-petitioner and Annexures P-7 & P-8, respectively, filed along with application are taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

III. CRM stands disposed of.

CRM-M-55016-2018

1. While issuing notice to the respondents, the Coordinate Bench of this Court, noticed in its order dated December 15, 2018, as under:-

“Present: Mr.H.S.Dhillon, Advocate for the petitioner.

Learned counsel for the petitioner contends that on the allegations as are contained in the impugned complaint (Annexure P-1), the petitioner has already faced the trial for the same occurrence in case FIR No.212 dated 29.06.2014 and was convicted vide judgment dated 08.09.2017 (Annexure P-3). It is argued that the complaint is nothing but an abuse of the process of law as the petitioner cannot be put to trial twice for the same offence.

Notice of motion for 01.02.2019.



In the meantime, further proceedings before the trial Court shall remain stayed.”

2. Again on 17.12.2024, following order was passed:-

*“Present: Mr. Hardeep Singh Dhillon, Advocate
for the petitioner(s).
Mr. Aashish Bishnoi, DAG, Haryana.

The grievance of the petitioner is that although on the possession of the drug i.e. microlit tablets in the present case, the petitioner was convicted under the provisions of NDPS Act, 1985 but now on similar allegations, a complaint has been filed under the Drug and Cosmetics Act, 1940.

List on 21.01.2025 for final hearing.

Further proceedings before the trial Court concerned shall remain stayed till pendency of the present petition.”

3. Thereafter, on 21.01.2025, following order was passed:-

*“Present: Mr. Hardeep Singh Dhillon, Advocate
for the applicant-petitioner.
Mr. Kanwar Sanjiv Kumar, AAG, Haryana.*

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To examine the fact that the commodity involved in the proceedings initiated against the petitioner under the Drugs and Cosmetics Act, 1940, has already been the subject of trial under the NDPS Act, wherein, he has already been convicted, counsel for the applicant-petitioner seeks a short adjournment.

Adjourned to 19.02.2025.

Interim order to continue.”

4. Later on, on 20.02.2025, bone of contention of learned State counsel was that for possessing of 11952 Spasmo Proxyvon plus capsule (83 x 18 x 8 capsules), never any prosecution was initiated against the petitioner. Even said capsules were not covered as offence under the NDPS Act. However, can be prosecuted under the Drugs and Cosmetics Act only.

On hearing the learned State counsel, on 20.02.2025, following order was passed:-

*“Present:- Mr. Hardeep Singh Dhillon, Advocate
for the petitioner.
Mr. Kanwar Sanjiv Kumar, AAG, Haryana*

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During the course of short hearing, learned State counsel reads out paragraphs No. 5 and 6 of the reply dated 17.01.2025, filed by respondents No.1 and 2 & submits that in the proceedings under NDPS Act, petitioner was prosecuted under MTP Act, 1971 on account of possessing 92 x 100 tables of Microlit tablets and thereupon was convicted vide judgment dated 08.09.2017 and then sentenced vide order dated 12.09.2017 by the Court of learned Additional Sessions Judge, Ambala.

Learned counsel also submits that in the complaint case, which is impugned herein, the prosecution has been launched under



Drugs & Cosmetics Act by State of Haryana for possessing 11952 Spasmo Proxyvon plus capsule (83 x 18 x 8 capsules).

It is also contended that for recovery of 8 x 100 Microlit tablets though sampelling was done but the petitioner has already been prosecuted under NDPS Act and is not being prosecuted under the Drugs and Cosmetics Act now. Further clarified that at the time of raid i.e. in the year 2016, Spasmo Proxyvon plus capsule was not falling as a ban drug under the NDPS Act, therefore, he is being separately prosecuted for possessing the said drugs under Drugs and Cosmetics Act.

Faced with the situation, learned counsel for the petitioner, prays for grant of some time to examine the submission addressed by learned State counsel and then to respond over the same.

List on 17.03.2025.”

5. To the contrary, counsel for the petitioner is unable to point out any mistake or misrepresentation on the part of the State. Besides, it is also noticed that the proceedings in the complaint case was stayed by this Court vide order dated 15.12.2018.

6. Faced with the situation, counsel for the petitioner seeks withdrawal of present petition.

7. Dismissed as withdrawn.

Interim order stands vacated.

Let a copy of this order be forwarded to the concerned trial Court.

(SANJAY VASHISTH)
JUDGE

March 17, 2025

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No