



117

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

**CRR No.2291 of 2025 (O&M)
Date of Decision: 16.09.2025**

Avtar Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Amaninder Preet, Advocate
for the petitioner.

Mr. J. S. Arora, DAG, Punjab assisted by
ASI Nachhattar Singh.

RAJESH BHARDWAJ, J. (ORAL)

1. Present petition has been filed praying for setting aside the impugned order dated 08.08.2025 passed by the learned Judge, Special Court, Faridkot and for staying the operation of impugned order dated 08.08.2025. Further prayer has been made for staying the further proceedings before the learned trial Court during the pendency of the present petition and the learned trial Court may kindly be directed to adjourn the matter beyond the date fixed by this Hon'ble Court.
2. Succinctly the facts of the case are that the police party, while on patrolling on 02.11.2020, saw two persons coming on the motorcycle, who were carrying a plastic bag being held by the pillion



rider, kept in between both of them. On suspicion, they were stopped and on asking, they disclosed their names to be Amandeep Singh @ Amna and Kuldeep Singh. They were suspected to be carrying some contraband in the plastic bag and thus the search was conducted. On conducting the search, 15000 narcotic tablets were recovered from the same. They failed to produce any licence regarding the narcotic tablets recovered and thus, the FIR under Sections 22, 61, 85 of NDPS Act was registered and both were arrested on the spot. During the investigation, complicity of the petitioner surfaced and thus, he was also arrayed as an accused in the present case vide GD No.25, dated 27.04.2022 as he was the owner of the truck bearing registration No.RJ-13-GB-0775. Thereafter, as no case was made out under section 29 of NDPS Act against the petitioner, the same was deleted and Section 25 of NDPS Act was added vide GD No.47, dated 04.10.2022. Supplementary challan was presented against the petitioner and thereafter, the matter was adjourned for arguments on charge. The petitioner moved an application for discharge on the ground of absence of *prima facie* grounds, however the same was dismissed vide its impugned order dated 08.08.2025 and the learned trial Court framed the charge against the petitioner under Section 25 of NDPS Act. Hence being aggrieved, the petitioner has approached this Court by way of filing the present petition.

3. Learned counsel for the petitioner has submitted that neither the petitioner is named in the FIR nor any recovery has been effected from him, however he has been clandestinely implicated in the present



case and the charge under Section 25 of NDPS Act has been illegally framed against him by the learned trial Court. He has submitted that the petitioner and his son have fallen victim to the atrocities committed by the police and the petitioner has no concern with the recovery effected. He has submitted that during the investigation, a cock and bull story was made by the Investigating Agencies that the contraband recovered from the co-accused was brought in the truck bearing registration No.RJ-13-GB-0775, which is owned by the petitioner. He has submitted that the learned trial Court has framed the charge under Section 25 of NDPS Act vide impugned order dated 08.08.2025, which is totally against the law settled. He has submitted that even if the petitioner is found to be the owner of the truck, no charge could be framed for the offence under Section 25 of NDPS Act. He has submitted that as per the mandate of the statutory provisions of Section 25 of NDPS Act, one cannot be prosecuted in the absence of the knowledge and consent to use the vehicle. He has submitted that the challan has been presented against the petitioner and there is no evidence on the record to show that the petitioner had the knowledge and consent for the use of the vehicle for the offence committed under the NDPS Act. To buttress his arguments, he has relied upon the judgment passed by the Hon'ble Supreme Court in '*Harbhajan Singh vs. State of Haryana*', 2023 AIR Supreme Court 2179. He has thus submitted that simply because the petitioner was the owner of the truck is not sufficient for his prosecution for the offence under Section 25 of NDPS Act. He has submitted that the petitioner filed



an application under Section 227 of Cr.P.C. for his discharge, however the same has been illegally declined by the learned trial Court vide impugned order dated 08.08.2025. He has thus argued that the impugned order being unsustainable in the eyes of law, deserves to be set aside.

4. Notice of motion.

5. On asking of the Court, Mr. J. S. Arora, DAG, Punjab appears and accepts notice on behalf of the respondent-State. He has opposed the submissions made by learned counsel for the petitioner. He has submitted that admittedly the petitioner is the owner of the truck bearing registration No.RJ-13-GB-0775 from which the recovery of 2500 intoxicant tablets were effected. He has submitted that the vehicle used in the offence that was being driven by none other than the son of petitioner, namely, Amandeep Singh @ Amna. He has submitted that there was sufficient material produced by the Investigating Agencies in the challan presented and thus, a prima facie case was established on the basis of the challan presented and hence, the learned trial Court has rightly framed the charge for the offence under Section 25 of NDPS Act. He has submitted that the petition being devoid of any merit deserves to be dismissed.

6. The Court has heard learned counsel for the parties and perused the record with their able assistance.

7. As deciphered from the facts and circumstances of the case, the petitioner was arrayed as an accused in the present case under Section 29 of NDPS Act during the investigation vide GD No.25 dated



27.04.2022. Thereafter, as no case was made out under section 29 of NDPS Act against the petitioner, the same was deleted and Section 25 of NDPS Act was added vide GD No.47, dated 04.10.2022. It has come during the investigation that the recovery of 15000 narcotics tablets effected from the co-accused, Amandeep Singh @ Amna and Kuldeep Singh were brought in the truck bearing registration No.RJ-13-GB-0775. The petitioner was found to be the owner of the truck. The said truck was being driven by son of the petitioner. The allegations against the petitioner were to the effect that he intentionally permitted the use of his truck in transporting the contraband in question. As per the settled proposition of the law, at the time of framing of charges, the trial Court is not to sift the evidences produced and it has to see whether a prima facie case is made on the basis of the material produced on record. On the perusal of the record, the learned trial Court had found a prima facie case having been made out against the petitioner and thus, the charges for the offence under Section 25 of NDPS Act have rightly been framed.

8. There is no dispute regarding the judgment relied upon by learned counsel for the petitioner, however, the facts and circumstances of the case were different. As per the facts and circumstances of that case, the witnesses, who informed the police about the names of the driver and the cleaner turned hostile and denied the incident occurred in their presence. The Sub Inspector, before whom the extra judicial confession was made, was also not produced before the learned trial Court. Thus, it is evident the Hon'ble Supreme Court in '*Harbhajan*



Singh’s case (supra) had acquitted the accused in that case on the appreciation of the evidences led by the prosecution. However in the present case, the trial is at the threshold and only charges have been framed so far.

9. Thus, this Court finds that the judgment relied upon by learned counsel for the petitioner distinguishable on the facts and circumstances of the case. Weighing the facts and circumstances of the present case, on the anvil of the law settled, this Court finds no infirmity in the impugned order dated 08.08.2025 passed by the learned Judge, Special Court, Faridkot in declining the application filed by the petitioner under Section 227 of Cr.P.C. Hence, the present petition is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

16.09.2025

rittu

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

(RAJESH BHARDWAJ)
JUDGE