

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-144-2024 (O&M)

Decided on 07.07.2025

Harpreet Moudgill

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. AS Jawandha, Advocate for the petitioner

Mr. Sandeep Singh, AAG Punjab

Sandeep Moudgil, J.

(1). This petition under Section 401 CrPC has been filed by the petitioner seeking to quash the impugned order dated 26.09.2023 passed by Special Judge, Sangrur vide which the petitioner has been charged under Section 18 of the Narcotic Drugs and Psychotropic Substance Act, 1985 (in short, the NDPS Act) in case FIR No.140 dated 06.07.2019 under Sections 18/61/85 of NDPS Act registered at Police Station City Sangrur.

(2). Learned counsel for the petitioner submits that two different parcels of sample were sent to the FSL Mohali and it has come in the report that parcel No.1 was allegedly seized from co-accused Ravinder Kumar, whereas parcel No.2 was alleged to be seized from Harpreet Moudgill i.e. present petitioner. He then submits that as per the FSL report bearing No. 2685/2019/Toxi/FSL/PB dated 18.09.2019 two different parcels i.e. parcel no.1 & 2 were having morphine content of 3.14% and 3.17% respectively. It is further submitted that as per the FSL report the weight of the alleged recovery of opium comes out to be of non-commercial nature.

(3). It is argued that the analyst report has to be taken into consideration for generalizing quantity – small quantity or commercial/non-commercial quantity as defined under Section 2 (xxiia) and Section 2 (viiia) of the NDPS Act and the trial court without appreciating the facts and law wrongly mentioned that quantity of the recovered contraband to be 300 gms of smack instead of 151 gms which falls under the non-commercial quantity.

(4). Learned counsel then averred that as per the facts and circumstances of the case, one kg of opium is below the commercial quantity and it is not the total weight of the substance which was allegedly recovered from both the accused and as such, it was imperative upon the trial court to ascertain as to whether the contraband involved is non-commercial or commercial quantity and in the present case the dispute is whether the alleged recovery from both the accused shall be taken together or separately since the alleged recoveries have been shown from their conscious possession.

(5). Reply dated 30.03.2024 has been filed by Dy.SP, S/D Sangrur wherein it has been averred that 7 kg Opium and currency notes of Rs.4,02,000/- were recovered from the possession of accused Ravinder Kumar @ Shelly and 1kg opium was recovered from the possession of petitioner-Harpreet Moudgill and accordingly total 8 kgs opium was recovered from the possession of both the accused persons. So, prima-facie offence punishable u/s 18 NDPS Act was found to be made out against accused/petitioner Harpreet Moudgill and Ravinder Kumar @ Sheely and as such, the Trial Court has rightly framed charge against both the petitioner under section 18 of the NDPS Act.

(6). Heard learned counsel for the parties.

(7). It is settled that at the stage of framing the charges, this Court is empowered to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out and where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained, the Court will be fully justified in framing a charge and proceeding with the Trial. No roving inquiry into pros and cons of the matter and weighing the evidence is necessary as if the trial is conducted. The purpose of framing a charge is to intimate to the accused the clear, unambiguous and precise nature of accusation that the accused is called upon to meet in the course of a trial. The trial court is not expected or supposed to hold a mini trial for the purpose of marshalling the evidence on record.

(8). In the case in hand, the petitioner and co-accused were apprehended with the contraband and whether or not the weight of the contrabands recovered from the person of each of the accused has to be treated a collective recovery or separate is a matter to be decided by the trial court and cannot be commented upon at this stage by this Court. Therefore, the material on record prima facie appears sufficient to frame the charge for commission of offence under Sections 18 of NDPS Act and as such, framing of charges for commission of aforesaid offence by the Trial Court cannot said to be without any reason taking into consideration the fact of limited revisional jurisdiction of this Court.

(9). In view of the above discussion, there is no error apparent in the order passed by the trial court.

(10). Dismissed.

07.07.2025

V.Vishal

1. Whether speaking/reasoned?
2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No
Yes/No