



S. No.106

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4121 of 2019

Date of Decision:19.02.2026

Sunil Sharma @ Sunil Kumar

.....Petitioner

Vs.

State of Punjab

.....Respondent

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

Present:- Mr. Jaivir Yadav, Sr. Advocate with
Mr. Tapan Kumar, Advocate for the
petitioners.

Mr. Ishan Kaushal, AAG, Punjab.

Yashvir Singh Rathor, J. (Oral)

1. This is a petition filed by the petitioner under Section 482 Cr.P.C, seeking quashing of FIR No.12 dated 12.01.2017, registered under Sections 18 and 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 (**hereinafter to be referred as “the NDPS Act”**), registered at Police Station Sadar, Amritsar, along with subsequent proceedings arising therefrom.

2. As per allegations in the FIR, on 11.01.2017, Inspector Palwinder Singh along with police officials was present at Bus Stand Batala Road when he received secret information that one Balwant Singh owns a house in Parkash Vihar which has been given on rent to Sanjay Kumar and Ajay Kumar- petitioners who are residents of Shastri Nagar, Lawrence Road. Both of them own one shop in the name of “SA Medicine Centre” at Farid Chowk and they have kept huge quantity



of intoxicating medicines in the said house taken on rent. In case, a raid is conducted, huge quantity of contraband can be recovered. Thereafter, a raid was conducted in the said house where two clean shaven persons were found present and one of them escaped on seeing the police party while one person namely Sunil Sharma (petitioner) was apprehended. He told the name of the other person who had absconded as Ajay Kumar. Many boxes were found lying and on checking, two lakh tablets of different pharma companies in the name of Kamini Vidrawan Ras were recovered which were sealed and taken into possession after drawing the samples. Accused Ajay Kumar and Sanjay Kumar were also arrested and after completion of investigation, final report under Section 173 Cr.P.C was presented for trial of the accused.

3. I have heard learned counsel for the parties and have perused the material placed on record.

4. Learned counsel for the petitioner argued that the ayurvedic medicines recovered fall under the category of medicinal opium and no offence under Section 21 of NDPS Act is made out as only traces of morphine have been found in the contraband as per FSL report whereas morphine more than .2% should have been found so as to bring the same within the four corners of “opium derivatives” as defined under Section 2(xvi) of the NDPS Act, 1985. As such, only traces of morphine have been found and he could have been prosecuted only if the percentage of morphine would have been .2% or more and no offence under Section 21 read with Section 29 of the NDPS Act is attracted and FIR in question is liable to be quashed. In support of his contention, learned counsel has cited



judgment dated 11.03.2015 rendered by a co-ordinate Bench of this Court in CRR No.373 of 2015 titled **Vinay Kumar and another Vs. State of Punjab.**

5. On the other hand, learned State Counsel has argued that from the material placed on file, prima-facie offence under Section 21 read with Section 29 of the NDPS Act is made out. Learned State Counsel further contended that the FIR in question is not liable to be quashed.

6. Hon'ble Supreme Court in 1992 AIR (SC) 604, **State of Haryana and others Vs. Ch. Bhajan Lal and others**, has laid down the parameters under which the Court in exercise of its inherent powers under Section 482 of the Code of Criminal Procedure can quash the FIR and consequential proceedings which are reproduced as under:-

“(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;



7. A perusal of the afore-said law laid down by the Hon'ble Supreme Court makes it clear that the FIR can be quashed along with consequential proceedings if no prima-facie offence is made out from the allegations levelled in the FIR even if they are taken to be true at their face value or if the allegations in the FIR and material collected during investigation do not disclose commission of any offence and make out a case against the accused. As such, the allegations in the present FIR and the material annexed with the petition thus have to be perused to find out whether the same disclose a prima-facie case against the petitioner or not.

8. Before proceeding further, Section 2(xv), 2(xvi), 18 and 21 of the NDPS Act are being reproduced hereinafter for ready reference:-

Section 2(xv) "opium" means-

- (a) the coagulated juice of the opium poppy, and
- (b) any mixture, with or without any neutral material, of the coagulated juice of the opium poppy, but does not include any preparation containing not more than 0.2 per cent. of morphine:

Section 2(xvi) "opium derivative" means-

- (a) medicinal opium, that is, opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the Indian Pharmacopoeia or any other pharmacopoeia notified in this behalf by the Central Government, whether in powder form or granulated or otherwise or mixed with neutral materials;
- (b) prepared opium, that is, any product of opium by any series of operations designed to transform opium into an extract suitable for smoking and the dross other residue remaining after opium is smoked;



(c) phenanthrene alkaloids, namely, morphine, codeine, thebaine and their salts:

(d) diacetylmorphine, that is, the alkaloid also known as diacetylmorphine or heroin and its salts; and

(e) all preparations containing more than 0.2 per cent. of morphine or containing any diacetylmorphine;

xxxxx”

Section 18. Punishment for contravention in relation to opium poppy and opium.-Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, cultivates the opium poppy or produces, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses opium shall be punishable,-

- (a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both;
- (b) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees which may extend to two lakh rupees: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees;
- (c) in any other case, with rigorous imprisonment which may extend to ten years and with fine which may extend to one lakh rupees.

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Section 21. Punishment for contravention in relation to manufactured drugs and preparations.- Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State,



exports inter-State or uses any manufactured drug or any preparation containing any manufactured drug shall be punishable,-

- (a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both;
- (b) where the contravention involves quantity, lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years and with fine which may extend to one lakh rupees;

9. Besides this, relevant portion of FSL report is also reproduced as under:-

“The contents of the parcels marked 1 to 24 under reference have been analysed separately by chemical analysis. On the basis of analysis morphine has been found present in traces in contents of all the parcels (1 to 24).”

10. A perusal of the afore-said report of the FSL makes it clear that traces of morphine have been found in all the 24 samples sent to FSL. As such, the morphine content detected in recovered contraband is less than the stipulated quantity of .2% and the medicines recovered from the spot thus cannot be termed as ‘opium’ or ‘opium derivative’. In **Vinay Kumar’s case (supra)** also, the contents of morphine were found to be less than .2% and the proceedings were quashed which is fully applicable to the facts of the case in hand.

11. Looked from any angle, no offence, much less a prima-facie offence, is made out against the petitioner from the allegations levelled in the FIR and continuation of present proceedings is nothing but an abuse of the process of law



and in these circumstances, the FIR and the consequential proceedings are liable to be quashed. Resultantly, FIR No.12 dated 12.01.2017, registered under Sections 18 and 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Sadar, Amritsar, along with subsequent proceedings arising therefrom are hereby quashed qua the petitioner.

- 12. Disposed of.
- 13. Pending Misc., if any, shall also stand disposed of.

(Yashvir Singh Rathor)
Judge

February 19, 2026
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No