



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-19877-2026  
Reserved on:-28.04.2026  
Pronounced on:-04.05.2026  
Uploaded on:- 04.05.2026

Whether only operative part of the judgment is  
Pronounced or the full judgment is pronounced:      operative part/full judgment

AKASH AND OTHERS      ...Petitioners

Versus

STATE OF HARYANA      ....Respondent

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present:- Mr. Krishan Singh, Advocate and  
Ms. Alka, Advocate  
for the petitioners.

Mr. Sushil Bhardwaj, Addl. A.G. Haryana.

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MANDEEP PANNU, J.

1. This is a petition under Section 528 of BNSS for quashing of the order dated 24.03.2026 passed by the Ld. Additional Sessions Judge, FTSC-NDPS Act, Ambala, in case bearing No. NDPS/44/2018, CNR No. HRAM-0100-6720-2018, titled *State vs. Akash & Others*, arising out of FIR No. 188 dated 19.06.2018, registered under Sections 21 and 22 of the NDPS Act (later on Sections 29 and 22(c) added) at Police Station Mahesh Nagar, District Ambala. The impugned order dated 24.03.2026 came to be passed by the Ld. Additional Sessions Judge, FTSC-NDPS Act, Ambala, at the stage when the case was fixed for recording of statement of the accused



under Section 313 Cr.P.C. During the course of such proceedings, the learned trial Court undertook a detailed perusal of the case file and the material available on record.

2. Brief facts of the case are that the patrolling party headed by ASI Kulwinder Singh had intercepted accused Akash and Jaswinder Singh @ Mithu and effected recovery of 13 boxes (1872 capsules) of Spasmo Proxyvon Plus capsules from the possession of accused Akash and 14 boxes (2016 capsules) from the possession of accused Jaswinder Singh. The total recovery amounted to 3888 capsules, the aggregate weight of which (without boxes) was found to be 2 kg 972 grams. The learned trial Court further took into account the report of the Drug Control Officer (DCO) Shri Parveen Kumar, wherein it was noted that the recovered capsules contained Tramadol Hydrochloride as an active ingredient, falling within the ambit of the NDPS Act. Additionally, reliance was placed upon the FSL report (Exhibit PX1), wherein the average weight of one capsule from both the recovered lots was found to be 0.6165 grams. On the basis of the total number of capsules and their average weight, the Court concluded that the total weight of the recovered contraband was far in excess of 250 grams, i.e., the prescribed commercial quantity for the psychotropic substance Tramadol. While arriving at this conclusion, the learned trial Court also referred to the law laid down by the Hon'ble Supreme Court in *Hira Singh and another vs. Union of India and another*, AIR 2020 SC 3255, holding that for the purpose of determining the quantity of contraband, the entire weight of the mixture, including neutral substances, is to be taken into consideration. In light of the aforesaid material and legal position, the Court observed that the



case clearly falls within the category of commercial quantity. Consequently, the learned trial Court formed an opinion that the accused had been incorrectly charge-sheeted under Section 21 of the NDPS Act and ought to have been charged under Section 22(c) of the NDPS Act. Exercising its powers to amend the charge at any stage, and observing that no prejudice would be caused to the accused, the Court amended the charges accordingly. Accused Akash and Jaswinder Singh were charge-sheeted under Section 22(c) of the NDPS Act, whereas accused Lakhwinder Singh, along with the other accused, was charge-sheeted under Section 29 read with Section 22(c) of the NDPS Act. The accused pleaded not guilty and claimed trial. The Court thereafter afforded an opportunity to both the prosecution and the defence to recall witnesses, and on request of the defence counsel, adjourned the matter for further proceedings.

3. Learned counsel for the petitioners has argued that the impugned order dated 24.03.2026 passed by the Ld. Additional Sessions Judge, FTSC-NDPS Act, Ambala, is illegal, arbitrary and liable to be set aside. It is contended that after completion of prosecution evidence and at the stage of recording statements under Section 313 Cr.P.C., the learned trial Court has amended the charge and framed charges under Sections 22(c) and 29 of the NDPS Act without there being any new material or evidence on record. It is further argued that the amendment of charge has been made solely on the basis of the judgment of the Hon'ble Supreme Court in *Hira Singh's case (supra)* which, according to the petitioners, is not applicable retrospectively as the FIR in the present case is of the year 2018, whereas the said judgment was delivered on 22.04.2020. It is further submitted that the



learned trial Court had earlier rightly held that no offence under Section 22 of the NDPS Act was made out against the petitioners, however, the same has been reversed without any justification. It is also contended that the petitioners have been facing trial since the year 2018 and after about eight years, the amendment of charge at such a belated stage causes serious prejudice to the petitioners and would result in irreparable loss and injury. Accordingly, it is prayed that the impugned order be quashed.

4. On the other hand, learned State counsel has argued that there is no illegality in the impugned order. It is submitted that keeping in view the quantity recovered from the petitioners, the charge has been rightly amended by the learned trial Court. It is further contended that no prejudice has been caused to the petitioners as it has been specifically recorded in the impugned order that both the prosecution as well as the defence were asked whether they wanted to recall any witness. While the prosecution declined, the learned defence counsel sought time to exercise the option for recalling witnesses for further cross-examination. Thus, an effective opportunity has been granted to the petitioners to recall any witness. It is also argued that the charge can be amended at any stage of the trial and the impugned order has been passed in accordance with law.

5. I have heard learned counsel for the parties and have gone through the record of the case. At the outset, the contention of the petitioners that the charge has been amended solely on the basis of the judgment in *Hira Singh's case (supra)* is found to be misconceived. A perusal of the impugned order clearly reveals that the learned trial Court has not only relied upon the said judgment but has also taken into consideration the



material available on record, including the recovery effected from the petitioners, the report of the Drug Control Officer, and the FSL report (Ex.PX1). As per the FSL report, the average weight of each capsule was found to be 0.6165 grams and the total number of capsules recovered was 3888, making the total weight of the recovered contraband 2 kg 972 grams, which is far in excess of the prescribed commercial quantity of 250 grams for Tramadol. Thus, the material on record itself clearly makes out a case of commercial quantity, and the reliance upon the judgment in *Hira Singh's case (supra)* is only in support of the said conclusion and not the sole basis thereof. Further, it is a settled proposition of law that charges can be amended at any stage of the trial, provided no prejudice is caused to the accused. In the present case, the learned trial Court has exercised its jurisdiction in accordance with law while amending the charge after noticing that the appropriate offence made out against the accused was under Section 22(c) of the NDPS Act.

6. As regards the plea of prejudice, the same is also without merit. The impugned order itself records that both the prosecution and the defence were afforded an opportunity to recall witnesses. While the prosecution declined to recall any witness, the learned defence counsel sought time to exercise the option for recalling witnesses for further cross-examination. Thus, sufficient opportunity has been granted to the petitioners to defend themselves and no prejudice can be said to have been caused. It is also pertinent to note that the amendment of charge does not result in a de novo trial, especially when the prosecution has not sought to recall any witness.

7. In view of the above discussion, this Court finds no illegality or infirmity in the impugned order passed by the learned trial Court.
8. Accordingly, the present petition is hereby dismissed.
9. All pending applications, if any, also stand disposed of.

04.05.2026  
Anu

(MANDEEP PANNU)  
JUDGE

Whether speaking/reasoned  
Whether reportable

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Yes/No  
Yes/No