

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

CRR-2295-2022 (O&M)
Reserved on : 12.02.2026
Pronounced on : 09.03.2026

Subhash Chander

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. P.S. Ahluwalia, Sr. Advocate with
Mr. Jaiveer Singh, Advocate
for the petitioner.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab.

SURYA PARTAP SINGH, J.

1. The petitioner, who is facing a trial for the commission of an offence punishable under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, is aggrieved of the order dated 29.07.2022 passed by the learned Special Judge Moga, designated under the Narcotic Drugs and Psychotropic Substances Act, 1985, hereinafter being referred to as 'trial Court' only.

2. By virtue of abovementioned order, the learned trial Court has observed that a *prima facie* case for the commission of offence punishable under Section 22 of NDPS Act is made out against the 'petitioner/accused'

hereinafter being referred to as 'petitioner' only and thus, the petitioner has been chargesheeted.

3. The abovementioned order has been challenged by the petitioner on the ground that as per allegations contained in the FIR, viz-a-viz the final report under Section 173 CrPC, the petitioner was found in possession of Etizolam tablets, without any permit or license and thus, he committed the abovementioned offence.

4. With regard to abovementioned averments, it has been contended by learned Senior Counsel for the petitioner that the petitioner is a licensed chemist and that the abovementioned tablets were purchased by the petitioner against valid bills and those bills have already been verified by the concerned authority, i.e. the Drug Control Officer. As per learned Senior Counsel for the petitioner, during the course of investigation it was revealed that the license of the petitioner is in the name of 'M/s Manchanda Distributor' and that the drug was supplied to the petitioner by 'M/s Arun Medicine Chamber', and, that 'M/s Arun Medicine Chamber' had received the supply of drugs from 'M/s Life Vision Health Care', Mullanpur. The learned Senior Counsel for the petitioner has further contended that the bills with regard to abovementioned supply have already been verified and found to be true, but despite being a licensed chemist, authorised to stock the abovementioned medicine in its stock, and despite the purchase of medicine from authorised source in accordance with law, the petitioner is being prosecuted.

5. While claiming that the prosecution of petitioner is patently illegal, the learned Senior Counsel for the petitioner has contended that an error of judgment has been committed by the learned trial Court while observing that a prima facie case for the commission of offence punishable under Section 22 of NDPS was made out against the petitioner, as he was found in possession of abovesaid medicine without any permit or license. In support of his arguments, the learned Senior Counsel for the petitioner has referred to the drug license of the petitioner. According to learned Senior Counsel for the petitioner, the abovementioned drug license authorized the petitioner to maintain the stock of abovementioned tablets in his business premises. On the basis of abovementioned contentions, it has been contended by learned Senior Counsel for the petitioner that the impugned order is not sustainable, being contrary to the settled principles of law.

6. The abovementioned arguments have been controverted by learned State Counsel. Although the learned State Counsel has conceded the fact that the petitioner is having a drug license issued by a competent authority, and also that he had purchased the medicines from an authorized source in a legal manner, yet, it has been contended by learned State Counsel that the offence under Section 22 of NDPS is made out against the petitioner as subsequent to issuance of license, the Central Government vide Gazette Notification dated 23.03.2021 has notified Etizolam as a psychotropic substance. According to learned State Counsel, once on 23.03.2021 the drug found in possession of petitioner was declared to be a 'psychotropic substance' and the petitioner for being in possession of abovementioned

medicine was in violation of Section 22 of NDPS Act, he has rightly been prosecuted and chargesheeted by the learned trial Court. It has been claimed by learned State Counsel that present revision petition is devoid of merits and deserves dismissal.

7. The record has been perused carefully.

8. At the very outset, it is very pertinent to mention here that there is no denial of the fact, in the present case, petitioner is the sole proprietor of 'M/s Manchanda Distributor' at Moga and on 28.12.2017 a drug license was issued in favour of petitioner which was prescribing that the petitioner was entitled to stock all types of medicines except the drugs containing narcotic drugs namely 'Dextropropoxyphene', 'Diphenoxylate', 'Codeine' and psychotropic substances namely 'Nitrazepam', 'Buprenorphine' and 'Pentazocine'.

9. The abovementioned conditions of the license shows that except the medicines mentioned above, the petitioner was authorised to purchase and stock all the medicines which included the medicine which has been recovered from the possession of petitioner i.e. 'Etizolam'. Now the question arises as to whether the notification issued by the Central Government on 23.03.2021 could have an impact on the abovementioned license or not with regard to abovementioned issue, the relevant factor to be taken into consideration is that, that the license issued in favour of petitioner does not maintain the details of the medicine which he can retain. Rather the contents of the abovementioned drug license contain the details of medicines

which were not allowed to be purchased/stocked by the petitioner. The name of the medicine allegedly recovered from the possession of petitioner does not find mention in such drugs. Thus, the only and only inference which can be drawn is that unless the conditions of drug license are modified, the petitioner was entitled to purchase and maintain the stock of abovementioned medicine in an authorized manner. The purchase and stocking of abovementioned medicine by the petitioner could have been an offence only in two conditions:-

(i) If the condition of license issued in favour of petitioner would have been modified and the abovesaid drug would have been mentioned in the list of prohibited medicines.

(ii) If there was any express bar, by virtue of Notification dated 23.03.2021, with regard to purchase and storing of such drug despite licence. However, the abovementioned Notification qua this aspect is silent.

10. Thus, it is apparent that in the present case the prosecution has failed to show that there was no license in favour of the petitioner to retain in his stock Etizolam tablets.

11. As a sequel to abovementioned observations, if the impugned order is analyzed, it transpires that the learned trial Court has not touched this aspect in its order at all, and without considering the license of petitioner, which is available on record, the learned trial Court has passed the impugned order for framing of charge against the petitioner. The abovementioned approach adopted by the learned trial Court is not in conformity with law and, therefore, by accepting the present petition, the

impugned order is hereby set aside and the learned trial Court is directed to re-consider all the aspects involved in the present case, with regard to framing of charge, in the light of observation made in the foregoing paragraphs, and pass a fresh order accordingly.

12. The present petition stands **allowed** in the aforesaid terms.
13. Pending miscellaneous application(s), if any, shall stand disposed of.

(SURYA PARTAP SINGH)
JUDGE

09.03.2026
Vinod

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No