



2026:DHC:3849



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Judgment reserved on: 01.04.2026**Judgment pronounced on: 05.05.2026**Judgment uploaded on: 08.05.2026*+ **CRL.M.C. 3576/2024****SHER SINGH**

.....Petitioner

Through: Mr. Mool Singh, Advocate

versus

STATE (GOVT. OF NCT DELHI)

.....Respondent

Through: Mr. Sanjeev Bhandari, ASC
for the State with Mr. Arjit
Sharma, Ms. Sakshi Jha,
Advocates with ASI Sachin
Singh.**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. The petitioner has preferred the present petition seeking quashing of the Non-Bailable Warrants (NBWs) dated 20.11.2023 as well as the proceedings initiated against him under Section 82 of the Code of Criminal Procedure, 1973 [hereafter 'Cr.P.C.'] vide order dated 19.12.2023, by the learned Special Judge (NDPS), Rohini Courts, Delhi, in SC No. 834/2023, arising out of FIR No. 247/2023, registered for commission of offence under Section 20 of the



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Narcotic Drugs and Psychotropic Substances Act, 1985 [hereafter '*NDPS Act*'] at Police Station Crime Branch, Delhi.

2. Briefly stated, the facts of the present case are that on 18.10.2023, acting on secret information received by Inspector Robin Tyagi, a raid was conducted at Karnal Bypass (Mukarba Chowk), Delhi, where one Vivek Kumar was apprehended while travelling in his car bearing registration no. HR-98H-6880. Upon compliance of the provisions of the NDPS Act, including service of notice under Section 50 thereof, search of the vehicle was conducted and 226 grams of *charas* was recovered from the dashboard of the car. The recovered narcotic substance was seized, sealed and deposited in the *malkhana* in accordance with law. Thereafter, the present FIR came to be registered.

3. During investigation, accused Vivek Kumar disclosed that he had procured the recovered *charas* from the present petitioner, Sher Singh, resident of Village Malana, District Kullu, Himachal Pradesh, for a total consideration of ₹34,000/-, out of which ₹24,000/- was paid in cash and ₹10,000/- was transferred through Paytm. He also disclosed the petitioner's mobile number as 8091315020. The Call Detail Records (CDR), Customer Application Form (CAF), bank account details and transaction records were obtained during investigation, which allegedly revealed that the said mobile number was registered in the name of the petitioner and that ₹10,000/- had been transferred by accused Vivek Kumar to the petitioner's Airtel



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Payment Bank account linked with the said number. The investigation further revealed that accused Vivek Kumar had travelled to District Kullu, Himachal Pradesh from 14.10.2023 to 17.10.2023 and had remained in contact with the petitioner during that period. It is alleged that both were located in Malana Village on 17.10.2023 at the relevant time, from where accused Vivek Kumar is stated to have procured the recovered narcotic substance before returning to Delhi. The FSL report also confirmed that the recovered substance was *charas*, and thereafter, chargesheet was filed before the learned Sessions Court.

4. As regards the petitioner, the status report placed on record sets out that several raids were conducted at Village Malana, District Kullu, Himachal Pradesh, and adjoining areas to trace him, however, he could not be apprehended. Consequently, NBWs were issued against the petitioner on 20.11.2023 by the learned Special Judge. Thereafter, further raids were conducted on 09.12.2023, 10.12.2023 and 11.12.2023 at his residential address, but he was allegedly found absconding. It is further stated that since the petitioner could not be arrested despite execution efforts, proceedings under Section 82 of the Cr.P.C. were initiated against him *vide* order dated 19.12.2023. The proclamation was also published in newspapers on 06.01.2024 and was executed at his residence on 28.01.2024. It was further pasted on the entry gate of the Court of the learned Special Judge on 09.02.2024. According to the status report, analysis of the petitioner's



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CDR showed his location to be in Village Malana on the dates when raids were conducted and proceedings under Section 82 of Cr.P.C. were executed, and it is alleged that he deliberately evaded arrest by absconding and switching off his mobile phone. Since he neither appeared before the learned Special Judge nor joined the investigation, he was declared an absconder *vide* order dated 30.03.2024. The status report further mentions that the anticipatory bail application of the petitioner was dismissed by the learned Special Judge *vide* order dated 15.03.2024. It is also stated that anticipatory bail applications filed by the petitioner before this Court were dismissed on two occasions, *vide* orders dated 05.04.2024 and 25.04.2024.

5. The learned counsel appearing for the petitioner, *however*, argues that the petitioner was never served with any notice by the officials of the Crime Branch requiring him to join investigation and had no prior knowledge either of the registration of the present FIR or of the proceedings initiated against him. It is contended that the petitioner's parents and other family members had found the NBWs dated 20.11.2023 as well as the notice regarding proceedings under Section 82 of the Cr.P.C. affixed on the door/wall of the petitioner's house. It is contended that both the notices were pasted when no one was present at home and neither the petitioner nor his family members had been personally served with the same. The learned counsel submits that since the petitioner's parents were not



sufficiently educated to understand the contents of the notices, they got the same read over and explained by an educated person, whereafter they came to know that NBWs had been issued against the petitioner and that proceedings under Section 82 of Cr.P.C. had also been initiated against him. It is further submitted that at the relevant time, the petitioner was away from his residence on account of his occupation relating to tourism and camping activities in the high mountains and famous tourist places of Himachal Pradesh, where he works as a guide for tourists. Therefore, according to the petitioner, he remained unaware of the issuance of the NBWs as well as the proceedings under Section 82 of the Cr.P.C.

6. The learned counsel appearing for the petitioner further argues that the petitioner had neither deliberately nor intentionally avoided the investigation or the court proceedings and was never absconding. Rather, his non-appearance was solely on account of the fact that the notices were pasted in his absence and he had no knowledge of the proceedings pending against him. It is thus prayed that the NBWs dated 20.11.2023 as well as the proceedings initiated under Section 82 of the Cr.P.C. be quashed in the interest of justice.

7. The learned APP for the State, relying upon the status report, argues that sufficient efforts were made by the investigating agency to trace and apprehend the petitioner, and that repeated raids were conducted at his residence in Village Malana, District Kullu, Himachal Pradesh, as well as adjoining areas; however, the petitioner



could not be found and was absconding from his residence. The learned APP submits that the petitioner was deliberately evading arrest and avoiding the legal process, and therefore, he was rightly declared an absconder *vide* order dated 30.03.2024. It is thus prayed that the present petition be dismissed.

8. This Court has **heard** arguments addressed on behalf of the petitioner as well as the State, and has pursued the material available on record.

9. In the present case, the order dated 20.11.2023 directing issuance of NBWs against the petitioner reads as under:

“...This is an application for issuance of NBW against accused Sher Singh.

It is submitted by IO that during interrogation, co- accused Vivek disclosed the name of accused Sher Singh being the source of contraband. Accused Sher Singh is a resident of Malana, District Kullu, Himachal Pradesh. It is further submitted that several raids were conducted at Malana village and adjacent places but no clue could be found about Sher Singh. Search of accused Sher Singh was also made through technical surveillance and location of mobile number 8091315020 of accused Sher Singh but he could not be traced. Hence, it is prayed that NBW be issued against accused Sher Singh.

Submissions heard.

Considering the reasons mentioned, request of IO stands allowed. **Issue NBW against accused Sher Singh S/o Bhagat Ram R/o Malana, District Kullu, Himachal Pradesh, returnable for 16.12.2023.** IO shall conduct three visits of the house of accused qua execution of NBW against the accused.

Copy of this order be given dasti to IO...”



10. The order dated 19.12.2023 initiating proceedings under Section 82 of the Cr.P.C. against the petitioner reads as under:

“...A report qua non execution of NW issued against accused Sher Singh has been filed.

Report perused.

An application has been moved by IO for issuance of process under section 82 CrPC against accused Sher Singh.

It is submitted by IO that notices were served upon accused Sher Singh to join the investigation. It is further submitted that NBWs were issued against the accused and raids were conducted on 09.12.2023, 10.12.2023 and 11.12.2023 at residential address of accused but he is absconding. Hence, it is prayed that process under section 82 CrPC be issued against accused Sher Singh.

Submissions heard.

Considering the reasons mentioned, request of IO stands allowed. **Issue process under section 82 CrPC against accused Sher Singh returnable for 15.03.2024.** The proclamation shall be affixed at some conspicuous part of the house and a copy of proclamation shall be affixed at some conspicuous part of the court notice board. The proclamation be also done by way of beating drums. Proclamation be also published in the local newspaper of the area. **Process server is directed to execute the process 30 days prior to next date of hearing and be remained present on the next date for recording of his statement.** Copy of this order be given dasti to IO...”

11. At the outset, this Court notes that the petitioner has failed to point out any specific illegality, procedural irregularity or infirmity in the orders passed by the learned Special Judge directing issuance of NBWs and thereafter initiating proceedings under Section 82 of the Cr.P.C. The petition has been preferred, *primarily* on the ground that the petitioner was unaware of the proceedings being conducted in this



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case as he was away from his residence due to his occupation relating to tourism and camping activities in the high mountains and tourist places of Himachal Pradesh.

12. This Court notes that the status report placed on record reveals that after co-accused Vivek Kumar had disclosed the petitioner as the source of the recovered narcotic substance from him, investigation was carried out regarding the involvement of petitioner, and material revealing his involvement in the commission of offence was found. Thereafter, raids were conducted in Malana Village and adjoining areas to trace the petitioner, but he could not be found. Thereafter, NBWs were issued against him *vide* order dated 20.11.2023. This Court takes note of the fact that in order to execute the NBWs, raids were specifically conducted on 09.12.2023, 10.12.2023 and 11.12.2023 at his residential address in Village Malana, District Kullu, Himachal Pradesh, but he was found absconding from his residence.

13. It is to be noted that since the petitioner could not be apprehended, proceedings under Section 82 of Cr.P.C. were initiated against him *vide* order dated 19.12.2023. The record reveals that the proclamation was published in newspapers on 06.01.2024. The proceedings under Section 82 of the Cr.P.C. were also conducted at his residence on 28.01.2024, and the proclamation was further pasted on the entry gate of the Court of the learned Special Judge on 09.02.2024.



14. Significantly, the status report also records that on analysis of the CDR of the petitioner's mobile number, his location was found to be in his village at Malana, Himachal Pradesh on the relevant dates i.e. 09.12.2023, 10.12.2023 and 28.01.2024, when raids were conducted and proceedings under Section 82 of Cr.P.C. were executed in his village. It is also stated that on 11.12.2023, when raids were conducted to trace him, he had switched off his mobile phone, and similarly after proceedings under Section 82 of Cr.P.C. were conducted on 28.01.2024.

15. The petitioner, *in fact*, does not dispute that the NBWs and the notice under Section 82 of Cr.P.C. were found affixed on the door/wall of his house and were seen by his family members. Rather, his own case is that his parents found the notices pasted there and got them read over by an educated person to understand their contents. Therefore, it is not disputed that the investigating agency had carried out the proceedings at his residence and had effected service by affixation in accordance with law.

16. The only explanation sought to be offered by the petitioner is that he was away from home due to tourism and camping activities and was working as a guide in the high mountains and tourist places of Himachal Pradesh. This explanation is nothing more than a bald assertion since no material whatsoever has been placed on record to substantiate this plea. Moreover, this explanation is *prima facie* belied by the CDR analysis placed on record, and discussed above by



this Court, which shows his presence in Malana Village itself on the relevant dates when the raids were conducted and proceedings under Section 82 of Cr.P.C. were executed by the investigating agency.

17. In these circumstances, this Court finds no merit in the contention that the petitioner was unaware of the proceedings or that he had not deliberately avoided the investigation. The material placed on record clearly shows repeated attempts by the investigating agency to trace and apprehend him, and despite the same, he neither joined the investigation nor appeared before the learned Sessions Court.

18. Accordingly, this Court finds no illegality in the issuance of NBWs dated 20.11.2023 or in the initiation of proceedings under Section 82 of the Cr.P.C. *vide* order dated 19.12.2023 by the learned Special Judge. Therefore, in this Court's opinion, the petitioner was rightly declared an absconder *vide* order dated 30.03.2024.

19. The present petition, being devoid of merit, is accordingly dismissed.

20. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

21. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
MAY 08, 2026/ns/T.D./T.S.