CNR No: PHHC010973692026
2026:PHHC:205263

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-35923-2026
Date of Decision: 21.11.2026

Kulwant Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

*****

Present: Mr. Abhaysher Singh, Advocate
for the petitioner.

Mr. Ravinder Singh, DAG, Punjab.

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VIKRAM AGGARWAL, J. (ORAL)

The prayer in the present petition, preferred by the petitioner under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'the BNSS'), is for quashing of FIR No.77 dated 16.09.2024, registered at Police Station Lakho Ke Behram, District Ferozepur, under Sections 22 and 29 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short 'the NDPS Act') along with all consequential proceedings arising therefrom.

2. Short reply by way of affidavit of Sh. Tejinder Pal Singh Brar, Deputy Superintendent of Police, Sub-Division Guruharsahai, District Ferozepur, filed in Court today, is taken on record.

3. On 16.09.2024, while a police party was on patrolling, a secret information was received that one Rajinder Kumar alongwith Kulwant Singh

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(petitioner) were bringing intoxicating tablets in a swift car and that if barricading was done, they could be apprehended. Accordingly, barricading was done and the car in question was stopped. Rajinder Kumar was apprehended whereas the petitioner Kulwant Singh managed to flee. 550 tablets of *Tapentadol Hydrochloride* were recovered.

4. The petitioner initially filed an anticipatory bail application (CRM-M-51769-2024) which was dismissed by a Coordinate Bench vide order dated 19.10.2024 (Annexure P-2). He then filed a second petition for the grant of anticipatory which too was dismissed on 13.12.2024 (Annexure P-3). The petitioner then knocked the doors of the Apex Court which granted anticipatory bail to the petitioner vide order dated 28.03.2025 (Annexure P-5).

5. The case of the petitioner is that *Tapentadol Hydrochloride* is not a contraband and the report of the FSL had also said so but still the final report was presented.

6. Under the circumstances, this Court directed the respondent-State of Punjab to file a short affidavit as regards the assertions made in the petition.

7. In the affidavit, it has been stated as under:-

> ***"4. That it is pertinent to submit that the FSL report dated 28.10.2024 (Annexure P-4) was received in the present case, wherein the presence of the salt "Tapentadol Hydrochloride" was detected in the recovered contraband. The challan in the present case was prepared by Inspector Gurjant Singh. At the time of scrutiny of the challan, the concerned Assistant Public Prosecutor noticed the salt mentioned in the FSL report and directed Inspector Gurjant Singh to obtain an opinion from the Drug Inspector as to whether the said salt falls within the***

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purview of the NDPS Act or not. However, Inspector Gurjant Singh failed to obtain the requisite opinion from the Drug Inspector and, without complying with the aforesaid direction, presented the challan before the learned Trial Court in a routine manner on 06.05.2026.

5. That thereafter, on 05.06.2026, during the course of arguments on the question of charge, the learned Trial Court noticed the issue regarding the applicability of the NDPS Act to the salt detected in the recovered tablets and accordingly called for a report/opinion from the Drug Inspector as to whether the said salt finds mention in the Schedule to the NDPS Act. On 03.11.2026, the statement of the Drug Inspector was recorded by the learned Trial Court through video conferencing, wherein she stated that the salt in question does not fall within the purview of the NDPS Act. The matter is now fixed for 25.11.2026 for further proceedings, subject to the orders of this Hon'ble Court, as further proceedings before the learned Trial Court, including the proceedings relating to framing of charge, have been stayed by this Hon'ble Court.

6. That, in view of the aforesaid negligence and dereliction of duty on the part of Inspector Gurjant Singh in not obtaining the requisite opinion from the Drug Inspector despite specific directions issued by the concerned Assistant Public Prosecutor, departmental action has been initiated against him and a departmental enquiry has been ordered vide letter No. 1855-D/JSD dated 18.11.2026. The matter will be examined at the departmental level and appropriate action shall be taken in accordance with the applicable rules and procedure.

7. That it is respectfully submitted that the failure on the part of the investigating officer to obtain the requisite opinion from the Drug Inspector, or the subsequent opinion expressed by the Drug Inspector before the learned Trial Court, cannot

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by itself be treated as a ground for alleging that the petitioner has been falsely implicated or that the investigation was conducted with any mala fide intention. The FIR was registered on the basis of secret information and the recovery of 550 tablets was effected from the petitioner. The issue regarding the applicability of the provisions of the NDPS Act to the salt detected in the recovered tablets is a matter which has been brought to the notice of the learned Trial Court and is subject to judicial determination in accordance with law. The State has also taken cognizance of the lapse committed by the investigating officer and initiated departmental proceedings against him. It is, therefore, submitted that the matter deserves consideration on its own merits and in the light of the complete record of the case, rather than being decided solely on the basis of the aforesaid procedural lapse. Accordingly, the present petition for quashing of the FIR is liable to be dismissed."

8. Learned State counsel has virtually no explanation to offer as to on what basis the challan was presented once it had been found that Tapentadol Hydrochloride is not a narcotic substance. Mere initiation of departmental proceedings against the concerned officer does not serve the purpose and they appear to have been initiated only as an eye-wash.

9. Keeping in view the fact that the tablets allegedly recovered were not a narcotic substance, the FIR cannot be permitted to stand.

10. Under the circumstances, the present petition is allowed and the FIR No.77 dated 16.09.2024, registered at Police Station Lakho Ke Behram, District Ferozepur, under Sections 22 and 29 of the NDPS Act, with all consequential proceedings arising therefrom are hereby quashed qua the petitioner. The State is directed to pay a sum of Rs.1,00,000/- to the

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petitioner as compensation. The State shall, however, be at liberty to avail other remedies as admissible in law.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

21.11.2026
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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