



IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 216

Criminal Miscellaneous No.M-32733 of 2025

Date of Decision: September 02, 2025

Sekul Hadis @ Sekul Hadish

..... PETITIONER(S)

VERSUS

State of Haryana

..... RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA

PRESENT: - Mr. Sunil Panwar, Advocate, with Ms. Tejaswini, Advocate, for the petitioner.

Mr. Karan Veer Singh, Senior Deputy Advocate General, Haryana.

SUBHAS MEHLA, J

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.22 dated 29.01.2025, under Sections 22 (C) and 61 of Narcotics Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act') registered at Police Station, City Nuh, District Nuh.

2. As per the prosecution version, on 28.01.2025 at about 5:00 PM, as per direction/instruction by the ADC Nuh, the Drug Inspector visited the firm of Saikul Hadis, Prop. Cum Pharmacist of M/s Asian Pharmacy. The said raid was conducted on the basis of a viral video which claimed that the firm was found indulged in sale of psychotropic and habit forming drugs. The firm was having a valid drug license by SDCO cum LA, Zone Gurugram. On inspection, it was found that the medicines were stocked in the fall ceiling of the room of the second floor and the tablets namely Spastron Plus Capsules, Tramadol Hydrochloride and Acetaminophen Capsuls, totalling to 17760 capsules were found. The said drugs fall under NDSPS and also injections Diazrays 2 ML (expired) were also found. Tramasure Tablets (40 tablets) were



also recovered. In addition to these, 140 empty bottles of Onerex Coug Syrup were also found and the said drugs are used for medical intoxication purpose by the drug addicts. The purchase and sale records were not shown during the inspection. Subsequently, FIR No. 22 dated 29.01.2025, under Sections 22C, of the NDPS Act, 1985 was registered. The applicant was arrested on 30.01.2025 and since then he is in judicial custody. Hence, the present bail application.

3. Learned counsel for the petitioner has contended that petitioner has been falsely implicated and no case under Section 22-C of NDPS Act is made out. At the most, the case if any, is made out is under the Drugs and Cosmetics Act, 1940 (for short, 'Drugs & Cosmetics Act'). The petitioner is running a chemist shop under valid license. The Premises is a chemist shop and petitioner has license to store and sell the medicines and the alleged contraband is a medicine. Learned counsel further contends that petitioner has been falsely implicated due to ill-will of local drug administration authorities. Petitioner was not associated in the alleged raid and no videography was conducted. Relevant record and medicines were taken away without preparing recovery memos. The petitioner is a registered chemist and had been operating under a valid drug license. The petitioner, at the most, be said to have violated some term of the license granted to him under the Drugs and Cosmetics Act and cannot be prosecuted for having committed an offence under NDPS Act. The petitioner is in custody since 30.01.2025; investigation stands concluded; final report has been submitted on 03.05.2025; and no useful purpose will be served by keeping him behind bars any further.



4. *Per contra*, learned State counsel has opposed the prayer for grant of regular bail to the petitioner. The contraband recovered from the premises falls under commercial quantity invoking provisions of NDPS. Therefore, he is not entitled to the concession of bail.

5. Learned counsel further contends that petitioner's license has partially cancelled. To rebut this contention, learned counsel for the petitioner submits that no information was ever given to the petitioner regarding having a valid license at the time of inspection and even a routine thorough inspection has already been conducted four days back, and no incriminating things were found in the general inspection, and present case was registered on the asking of the Drug Administration Authority.

6. Heard.

7. Factual matrix of the case in hand is that Drug Inspector himself conducted the raid on 28.01.2025 in the premises of M/s Asian Pharmacy where he called the police party and conducted search whereupon the alleged contraband was recovered. Thereafter, on 29.01.2025, the Drug Inspector made a written complaint to SHO, Police Station, City Nuh, for lodging the FIR against the petitioner.

8. The moot question, raised by learned counsel for the petitioner, in the present case is whether an FIR can be registered under the NDPS Act or the case falls under the Drugs & Cosmetics Act, 1940.

9. The Drug Inspector has the power to take cognizance of the contraband recovered under Section 32 of the Drugs & Cosmetics Act, which is reproduced as under:-

32. Cognizance of offences—1[(1) No prosecution under this Chapter shall be instituted except by—



(a) an Inspector; or

(b) any gazetted officer of the Central Government or a State Government authorised in writing in this behalf by the Central Government or a State Government or by a general or special order made in this behalf by that Government; or

(c) the person aggrieved; or

(d) a recognised consumer association whether such person is a member of that association or not.

(2) Save as otherwise provided in this Act, no court inferior to that of a Court of Session shall try an offence punishable under this Chapter.

(3) Nothing contained in this Chapter shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Chapter.”

10. It is clear from Section 32 of the Act *ibid* that no prosecution under this Chapter shall be instituted except by an Inspector or any gazetted officer of the Central Government or a State Government authorized by the Central Government or a State Government.

11. The Supreme Court in case **Union of India v. Ashok Kumar Sharma & others**, 2023 (1) SCC (CrI.) 565, held that having regard to the scheme of the CrPC and also the mandate of Section 32 of the Act and on a conspectus of powers which are available with the Drugs Inspector under the Act and also his duties, a Police Officer cannot register a FIR under Section 154 of the CrPC, 1973 in regard to cognizable offences under Chapter IV of the Act and he cannot investigate such offences under the provisions of the CrPC. In the case in hand, FIR was registered by a police officer.

12. There is an overlapping of jurisdiction of Drugs & Cosmetics Act and NDPS Act. As far as peculiar facts and circumstances of the case in



hand are concerned, the Drug Inspector went to the shop of the petitioner on 28.01.2025; raided his premises; and found medicines as mentioned above. It is not disputed that recovered articles are covered under scheduled drugs i.e. medicines and not the raw substances like Opium, Ganja or any other powder. It is also not disputed that the premises is a chemist shop under the name and Style of M/s Asian Pharmacy. So, *prima facie*, it seems that the provisions of Drugs & Cosmetics Act are applicable and not the provisions of NDPS Act, and the complainant-Drug Inspector himself has the power to take action as there is contravention of Drugs & Cosmetics Act. It is also not to be lost sight of the fact that Drug Inspectors are technical and qualified persons having qualification of B. Pharma to deal with such like situation as compared to the police officers who have no knowledge regarding the technicalities of Drugs & Cosmetics Act. It will create chaos if the police investigate offences in which the chemist and druggists are involved and complex issues are to be dealt with as medicines contain substance which comes under the NDPS Act. It creates an atmosphere of fear and no genuine person wants to indulge in the business of drugist and chemists. This moot question is to be adjudicated at appropriate stage after providing opportunity to the parties.

13. As the petitioner is in custody since 30.01.2025; investigation has already been also complete in this matter; trial is not likely to conclude in the near future, no fruitful purpose would be served by keeping the petitioner behind bars any longer.

14. Without commenting on merits of the case, the petition is allowed, and petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate.



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15. Needless to say that any observation made hereinabove is only for the purpose of deciding the bail petition and shall have no bearing on the merits of the main case.

(SUBHAS MEHLA)
JUDGE

September 02, 2025

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Whether Speaking/ Reasoned:

Yes/ No

Whether Reportable:

Yes/ No