

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

**CRR-2324-2022 (O&M)  
Reserved on : 22.05.2026  
Date of Pronouncement : 29.05.2026  
Uploaded on : 29.05.2026  
Pronounced in Full**

Anil Kumar Kaushik

... Petitioner

Versus

State of Punjab

... Respondent

**CORAM : HON'BLE MR. JUSTICE H.S. GREWAL**

Present:- Mr. Nikhil Ghai, Advocate for the petitioner.

Mr. Rohit Hans, DAG, Punjab.

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**H.S. Grewal, J.**

1. This revision petition has been filed under Section 401 Cr.P.C. seeking setting aside of the order dated 25.02.2022 passed by the learned Judge, Special Court, Faridkot, whereby the application filed by the petitioner for his discharge and release from custody was dismissed and charges have been framed against the petitioner in case FIR No.104 dated 23.05.2021, registered under Section 22(C) of the NDPS Act, 1985 (Section 29 of the NDPS Act added later on), at Police Station City Kotkapura, District Faridkot.

2. The case of the prosecution is that on 23.05.2021, a police party headed by the SI Kulbir Chand was present near Mandi Gate, Kotkapura, in connection with patrolling duty. During that time, a canter vehicle was noticed approaching from the Bathinda side. The said vehicle was signalled to stop,

whereupon the police apprehended the occupants, namely, Jaspal Singh @ Rinku and Harjinder Singh @ Kala. It is alleged that upon conducting a search of the vehicle, five boxes containing Lomotil tablets (total 30000 tablets) were recovered from the front side near the conductor seat, and 17 strips of Lomotil tablets were also recovered from the dashboard of the vehicle. Thus, the total recovery of 31,020 intoxicant tablets were allegedly recovered from the possession of Jaspal Singh @ Rinku and Harjinder Singh @ Kala.

3. During the course of investigation, co-accused Harjinder Singh @ Kala suffered a disclosure statement on 23.05.2021 to the effect that the recovered tablets had been purchased from the petitioner-Anil Kaushik, who is proprietor of Anil Medical Store, Delhi. On the basis of the said disclosure statement, the petitioner was nominated as an accused in the present case under Section 29 of the NDPS Act vide rapat No.38 dated 23.05.2021 on allegations of illegal supply of the contraband substance. Thereafter the investigating agency proceeded to Delhi and conducted a search at the petitioner's premises, from where 184 strips of Lomotil tablets (total 11040 tablets), 06 strips of Alprazolam tablets (total 360 tablets), 11 strips of Tramadol Hydrochloride tablets (total 550 tablets) and two boxes of Dicyclomine Hydrochloride Tramadol Hydrochloride and Acetaminophen capsules (total 480 capsules), as per the disclosure statement, from the store room of his residential house, on the back side of his shop, were recovered and the same was taken into police possession and the petitioner was arrested.

4. Upon receipt of report of RTFSL, Bathinda and after completion of investigation, report under Section 173 Cr.P.C. was presented in the Court on 12.11.2021 against all the accused persons, but brother of the petitioner,

namely, Manish Kaushik moved an application before the DIG, Faridkot for conducting enquiry regarding the innocence of the present petitioner. In pursuant thereto, an enquiry was conducted through DSP Avtar Chand and it was found that Anil Kumar Kaushik is holding a valid license and the licence was also verified to be correct by the concerned authorities. However, the licence which was produced by co-accused Harjinder Singh @ Kala regarding purchase of medicines from the present petitioner was found to be fictitious. Thereafter, the petitioner was found innocent and special report under Section 173(8) was presented in the Court, but the same was not believed and SI Kulbir Chand, Investigating Officer was summoned for recording of his statement who stated that he had not agreed with the report under Section 173(8) Cr.P.C.

5. Learned counsel for the petitioner submitted that the petitioner has been falsely implicated in the present case and has no connection whatsoever with the alleged offence. It is submitted that the petitioner has been nominated solely on the basis of the disclosure statement allegedly made by the co-accused, which by itself carries no evidentiary value unless duly corroborated by independent material. It is further submitted that except for the disclosure statement of the co-accused, there is no independent evidence connecting the petitioner with the alleged recovery from the offending vehicle. Therefore, the essential ingredients for invoking the provisions of the NDPS Act against the petitioner are not made out.

6. It is further submitted that the petitioner is a licensed dealer and was lawfully carrying on the business of medicines under a valid licence till 31.12.2021 issued by the competent authority. The petitioner was duly authorised to keep, stock and sell the medicines/drugs recovered from his

premises, and therefore, no criminal liability can be fastened upon him merely on account of such possession. It is also submitted that the petitioner had sold the medicines/drugs to Harjinder Singh @ Kala against a licence, produced before him, which was later found fictitious, for which the petitioner is not at fault.

7. It is further submitted that during investigation, the matter was independently inquired into by the DSP concerned, who verified the petitioner's licence and other supporting documents and found the same to be genuine. Upon such inquiry, the petitioner was found innocent and a supplementary report under Section 173(8) Cr.P.C. was submitted by the investigating agency in his favour. Learned counsel further submitted that once the investigating agency itself found the petitioner to be innocent and placed material on record showing that he possessed a valid licence, there was no justification for the trial Court to ignore the same and proceed to frame charges against him.

8. Learned counsel further submitted that the investigation has not been properly carried out by SI Kulbir Chand, the Investigating Officer, in accordance with law. It is submitted that at the time of effecting the alleged recovery, the Investigating Officer did not afford any opportunity to the petitioner to produce the valid licence or other relevant documents pertaining to the medicines in question. It is further submitted that the Investigating Officer, due to vested interest, has acted in a biased manner and has deliberately chosen not to agree with the report submitted under Section 173(8) Cr.P.C. Learned counsel, therefore, prayed for setting aside the impugned order framing charges against the petitioner and discharge of the petitioner from the present FIR.

9. *Per contra*, learned State counsel, while referring to the reply filed by way of an affidavit of Mr. Jatinder Singh, PPS, Deputy Superintendent of Police, Sub Division Kotkapura, District Faridkot, vehemently opposed the present petition and submitted that sufficient material was available on record at the stage of framing of charge to form a *prima facie* opinion regarding the involvement of the petitioner in the commission of the alleged offence. It is submitted that a huge quantity of intoxicant tablets was allegedly recovered from the vehicle occupied by the co-accused persons and during investigation, co-accused Harjinder Singh @ Kala specifically disclosed that the recovered contraband had been purchased from the petitioner and from the petitioner's premises, additional intoxicant medicines/tablets were also recovered.

10. It is further submitted that although a report under Section 173(8) Cr.P.C. was initially submitted in favour of the petitioner but the same was not accepted as final, as the investigating officer after conducting further investigation, raised serious doubts regarding the genuineness of the licence and the documents relied upon by the petitioner. Learned State counsel also submitted that the petitioner had failed to produce a valid licence before the investigating officer at the relevant time. It is, therefore, submitted that in view of the recovery effected in the case and the material suggesting his involvement in supply of the contraband, the learned trial Court has rightly framed charges against the petitioner.

11. I have heard learned counsel for the parties and have gone through the material placed on record.

12. The allegation against the petitioner is that he supplied the intoxicant medicines/tablets allegedly recovered from the co-accused Jaspal

Singh @ Rinku and Harjinder Singh @ Kala. It is not disputed that the petitioner was nominated in the present case only on the basis of the disclosure statement made by co-accused Harjinder Singh @ Kala during investigation. It is also a matter of record that the petitioner is a licensed medical dealer holding a valid licence issued by the competent authority for dealing in medicines.

13. It is also noticeable that during further investigation, the matter was independently examined by the police authorities and upon verification of the petitioner's licence and other relevant documents, the petitioner was found innocent and a supplementary report under Section 173(8) Cr.P.C. was submitted in his favour. The prosecution case itself indicates that the co-accused Harjinder Singh @ Kala had allegedly produced forged documents while purchasing the medicines from the petitioner and there is no material on record to *prima facie* show that the petitioner had prior knowledge that the documents produced by the purchaser were forged or fake.

14. Furthermore, the reasoning adopted by the learned trial Court does not appear to be convincing. The trial Court, while dismissing the application of the petitioner for discharge, held that as per copy of the licence, M/s Anil Medicos was given licence to sell, stock or exhibit for sale or distribute retail drugs other than those specified in Schedule C, C(I) and X of the Drugs Rules, 1945, on the premises situated at Shop No.2, House No.414/13, Khasra No.40/18/1, Main Bawan Road, Samaypur, Delhi, whereas as per the material produced on record, the said medicines/drugs were not recovered from the shop of the petitioner rather same were got recovered by him, as per his disclosure statement from the store room of his residential house, on the backside of his

shop and at that time, he did not produce any licence or any other document before SI Kulbir Chand, Investigating Officer.

15. It is apt to notice that merely because the medicines were allegedly recovered from the store room situated behind the petitioner's shop and not from the exact premises mentioned in the licence, by itself, cannot lead to an inference of criminal involvement, particularly when the petitioner was admittedly carrying on a lawful business under a valid licence.

16. Moreover, besides the disclosure statement of the co-accused, there is no independent incriminating material on record to show that the petitioner was knowingly involved in any illegal trafficking or unlawful activity under the NDPS Act. Mere supply of medicines by a licensed dealer in the ordinary course of business, without any material showing conscious knowledge, deliberate concealment, or intentional involvement in illegal activity, cannot by itself make out a criminal case. Reference may be made to the judgment of the Delhi High Court in the case of **Naveen Handa versus Central Bureau Narcotics**, bearing bail application No.4070/2024, decided on 25.07.2025, wherein following observations have been made:-

*“First and foremost, advertng to the first test envisaged under [Section 37](#) of the NDPS i.e. credible reasons for the court to believe that the accused is not guilty. Bail is opposed on the premise that the inventory mismatch indicates illicit sale of drugs, thereby invoking the stringent conditions of [Section 37](#) ibid of the [NDPS Act](#). However, pertinently, the prosecution does not challenge the validity or legality of the applicant's license. **Mere possession of drugs or psychotropic substances under a valid license does not, therefore, automatically trigger the NDPS provisions.** The prosecution's claim that the mismatch signifies unlawful sale at this stage remains an assertion/ assumption requiring further threadbare scrutiny evidence during the trial. The license (Annexure C) issued to applicant does not specify any quantitative limits, making it unclear whether the alleged mismatch constitutes a violation. Additionally, being tardy or*

*negligent in committing errors or lapses in record-keeping could be possible explanation qua the discrepancies, to be proved during the trial without holding the applicant culpable solely on the basis of mismatch in the inventory disregards the principle of presumption of innocence until proved guilty. Possibility of applicant being kept under incarceration/penalized by treating the potential clerical negligence as a criminal act cannot be ruled out.”*

17. Consequently, the present revision petition is allowed. The impugned order dated 25.02.2022 passed by the learned Judge, Special Court, Faridkot is set aside qua the petitioner with regard to his discharge in the present FIR. It is made clear that the trial shall continue in accordance with law against the remaining accused persons.

18. Pending application, if any, shall stand disposed of accordingly.

**(H.S. GREWAL)**  
**JUDGE**

**29.05.2026**  
A. Kaundal

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