CNR No: PHHC011233282026
2026:PHHC:114787

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(145) CRM-M-41512-2026 (O&M)
Date of Decision:**19.08.2026**

MANJINDER SINGH

… Petitioner

Versus

STATE OF PUNJAB

... Respondent

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Yashpal Thakur, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

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VIRINDER AGGARWAL, J. (Oral)

1. First petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 482 Cr.P.C.), seeking quashing of the impugned order dated 22.07.2026 (**Annexure P-1**) passed by the learned Trial Court, Fatehgarh Sahib, in FIR No. 52 dated 16.03.2019, registered under Section 22 of the NDPS Act, 1985, at Police Station Sirhind, District Fatehgarh Sahib, whereby the application moved by the prosecution seeking amendment of the charge-sheet and permission to produce on record the certified copy of the judgment dated 17.01.2026 has been allowed. The petitioner further prays for staying further proceedings before the learned Trial Court during the pendency of the present petition.

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2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in FIR No. 52 dated 16.03.2019, registered under Section 22 of the NDPS Act, 1985, at Police Station Sirhind, District Fatehgarh Sahib. It is further submitted that the petitioner was granted the concession of regular bail by this Court in CRM-M-27412 of 2019 vide order dated 05.07.2019. Subsequently, during the pendency of the present trial, the petitioner came to be implicated in another FIR, bearing No. 215 dated 28.10.2021, registered under Section 22 of the NDPS Act at Police Station Fatehgarh Sahib, District Fatehgarh Sahib, and was eventually convicted therein vide judgment dated 17.01.2026.

2.1. Learned counsel further submits that the present case had reached the stage of final arguments, which had already been heard, when the prosecution moved an application seeking amendment of the charge-sheet and permission to bring on record and prove the certified copy of the judgment dated 17.01.2026. The petitioner filed a detailed reply opposing the said application. It is contended that, despite the objections raised by the petitioner, the learned Trial Court, without properly appreciating the legal and factual submissions, proceeded to allow the prosecution application vide impugned order dated 22.07.2026. Hence, the present petition has been preferred challenging the legality and propriety of the said order.

3. Notice of motion.

4. Mr. Jasjit Singh Rattu, learned DAG, accepts notice on behalf of the State of Punjab and, while supporting the impugned order, submits that the learned Trial Court has rightly permitted the prosecution to place

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on record the certified copy of the judgment dated 17.01.2026 and to amend the charge-sheet in view of the petitioner's subsequent conviction under the NDPS Act. It is contended that the said conviction constitutes a subsequent and relevant circumstance having a bearing upon the applicability of Section 31 of the NDPS Act and, therefore, could not have been excluded from consideration merely because it arose during the pendency of the present trial.

4.1. It is further submitted that no prejudice is caused to the petitioner by bringing the subsequent judgment on record, as its legal effect and applicability can be duly adjudicated by the learned Trial Court after affording adequate opportunity to the petitioner. The impugned order, therefore, suffers from neither any jurisdictional infirmity nor any manifest illegality warranting interference in exercise of the inherent jurisdiction of this Court. Learned State counsel accordingly prays for dismissal of the present petition.

5. A perusal of the record reveals that the charge under Section 31 of the NDPS Act has been framed against the petitioner on account of his subsequent conviction under the NDPS Act during the pendency of the present trial. The present FIR was registered on 16.03.2019, whereas subsequently, FIR No. 215 dated 28.10.2021, under Section 22 of the NDPS Act, came to be registered against the petitioner at Police Station Fatehgarh Sahib, District Fatehgarh Sahib, in which he was convicted vide judgment dated 17.01.2026. It is on the strength of the said subsequent conviction that the prosecution sought amendment of the charge-sheet and

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permission to place the certified copy of the judgment on record. The relevant provisions of Section 31 of the NDPS Act read as under:-

Section 31 of the NDPS Act — Enhanced punishment after previous conviction.

Section 31 of the Narcotic Drugs and Psychotropic Substances Act, 1985 provides for enhanced punishment where a person, having previously been convicted of an offence under the NDPS Act, is subsequently convicted of another offence under the Act carrying the same amount of punishment.

The present provision operates as follows:

1. **Previous conviction is a foundational requirement**.

   The accused must have already been convicted of the commission, attempt, abetment or criminal conspiracy to commit an offence punishable under the NDPS Act.

2. **Second/subsequent conviction**:

   If such person is subsequently convicted of an offence under the NDPS Act carrying the same amount of punishment, the punishment for the second and every subsequent offence may extend to one-and-a-half times the maximum term of imprisonment, along with a fine extending to one-and-a-half times the maximum fine.

3. **Where the offence carries a minimum sentence:**

   The minimum punishment itself is enhanced to one-and-a-half times the prescribed minimum term of imprisonment and one-and-a-half times the minimum fine. The Court may impose a higher fine for reasons recorded in the judgment.

4. **Previous conviction outside India:**

   Under Section 31(3), a conviction by a competent criminal court outside India under a corresponding law is treated, for the

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purposes of Section 31(1) and (2), as though the person had been convicted by a competent court in India.

5.1. Section 31 of the NDPS Act provides for enhanced punishment for an offence committed after a previous conviction for an offence punishable under the said Act. The very statutory scheme of the provision, therefore, predicates the existence of a legally sustainable previous conviction in respect of an offence committed prior to the commission of the offence for which the accused is subsequently being tried. The previous conviction must, necessarily, relate to an offence anterior in point of time to the offence forming the subject matter of the subsequent prosecution.

5.2. In the present case, however, the temporal sequence is materially different. The offence forming the subject matter of the present FIR was allegedly committed on 16.03.2019, whereas the subsequent FIR, bearing No. 215 dated 28.10.2021, relates to an offence allegedly committed at a later point of time and culminated in the conviction of the petitioner vide judgment dated 17.01.2026. Thus, the conviction relied upon by the prosecution pertains to an offence committed subsequent to the commission of the offence involved in the present trial. Such subsequent conviction cannot, by '*retrospective operation'*, constitute a "*previous conviction*" so as to attract the rigours of Section 31 of the NDPS Act in the present proceedings.

5.3. It is further significant that, at the time of submission of the report under Section 173 Cr.P.C., there was neither any allegation nor any material indicating that the petitioner had suffered a previous conviction for an offence under the NDPS Act so as to warrant invocation of Section

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31 thereof. The charge is required to be founded upon the allegations contained in the police report and the material collected during investigation, and the subsequent conviction arising from an offence committed later in point of time cannot retrospectively alter the legal character of the offence forming the subject matter of the present prosecution.

5.4. Consequently, the subsequent conviction dated 17.01.2026 could not have been made the foundation for introducing or framing a charge under Section 31 of the NDPS Act in the present case. The learned Trial Court, therefore, fell in error in permitting the prosecution to amend the charge-sheet and in proceeding on the premise that the subsequent conviction attracted Section 31 of the NDPS Act. The charge framed under Section 31 of the NDPS Act is, accordingly, legally unsustainable and the impugned order dated 22.07.2026 is hereby set aside. The present petition is, accordingly, **allowed**.

6. In view of the final adjudication of the principal matter, all pending miscellaneous and connected applications, if any, have been rendered infructuous and are accordingly disposed of. The determination of the substantive proceedings has consequently exhausted the lis forming the subject matter of such ancillary applications, leaving no surviving cause requiring further consideration. Accordingly, no separate or further orders are called for in respect thereof.

(VIRINDER AGGARWAL)
JUDGE

19.08.2026
Gaurav Sorot

Whether reasoned / speaking? Yes / No
Whether reportable? Yes / No

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