

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE ANIL VERMA**

**ON THE 10<sup>th</sup> OF JULY, 2024**

**CRIMINAL REVISION No. 5355 of 2023**

**MANOJ KUMAR**

*Versus*

**THE STATE OF MADHYA PRADESH**

.....  
**Appearance:**

*(SHRI SHADAB KHAN - ADVOCATE FOR THE PETITIONER)*

*(SHRI AMIT RAVAL - GA FOR RESPONDENT/STATE)*  
.....

**ORDER**

Both the parties heard.

1. Petitioner has preferred this Criminal Revision under Section 397 & 401 of Cr.P.C. being aggrieved by the impugned order dated 13.10.2023 in Special S.T. No.6/2023 passed by the Special Judge (under NDPS Act), Ratlam, whereby trial Court has framed the charges under Section 8/29 of the NDPS Act against the petitioner/accused.

2. The brief facts of the case are that on 8.7.2023 police apprehended the co-accused Sajju @ Sajid and during the search recovered 18 gram contraband/Smack from his possession without having any valid licence. On the basis of the memorandum statement given by the co-accused under Section 27 of the Evidence Act, present applicant and other co-accused Shakil and Zafar have also been implicated in this offence. Accordingly offence has been registered.

3. Learned counsel for the petitioner submits that apart from the aforesaid memorandum under Section 27 of the Evidence Act, there is no other evidence

available on record to connect the petitioner with the aforesaid offence. There is no evidence available on record against the petitioner, then he should not be compelled to face the trial and it will be abuse of the process of law. No contraband has been recovered from his possession. The impugned order passed by the trial Court is neither legal, nor proper nor correct. Hence, it is prayed that the charges framed against the petitioner be quashed.

4. Per contra, learned counsel for the respondent/State opposes the prayer and prays for its rejection by submitting that apart from the memorandum under Section 27 of the Evidence Act, prosecution witnesses categorically deposed against the petitioner in respect of the aforesaid offence in their statement under Section 161 of Cr.P.C. Therefore, cogent evidence is available against the petitioner regarding the nexus between the petitioner and other co-accused persons regarding the transportation of contraband.

5. Both the parties heard at length and perused the case diary.

6. If the facts of the present case are considered, then it is clear that present petitioner is implicated in this offence on the basis of memorandum under Section 27 of the Evidence Act given by the co-accused Zafar, but no contraband has been directly recovered from the possession of the present petitioner to establish nexus between the present petitioner and the seized contraband. Constable Nilesh Pathak, Sub Inspector Sachin Dawar, independent witnesses Salim & Sultan have also deposed against the present petitioner regarding his involvement in this offence.

7. Prima facie for the purpose of framing of charge, this Court is of the considered opinion that there is sufficient material available on record. The Hon'ble Supreme Court in the case of **Soma Chakravarty Vs. State (Th. CBI) reported in 2007 AIR SCW 3683** has held as under:-

“20. It may be mentioned that the settled legal position, as mentioned in the above decisions, is that if on the basis of material on record the Court could form an opinion that the accused might have committed offence it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence. At the time of framing of the charges the probative value of the material on record cannot be gone into, and the material brought on record by the prosecution has to be accepted as true at that stage. Before framing a charge the Court must apply its judicial mind on the material placed on record and must be satisfied that the commitment of offence by the accused was possible. Whether, in fact, the accused committed the offence, can only be decided in the trial.”

8. It is well settled principle of law that at the time of framing of charges, meticulous appreciation of evidence available on record is not required and even a strong suspicion is sufficient to frame the charges.

9. In view of the law laid down by the Hon'ble Apex Court, this Court is of the considered opinion that no infirmity, irregularity or illegality is found in the impugned order passed by the learned trial court. Accordingly this revision is devoid of merit and is hereby dismissed at this stage.

10. It is made clear that nothing observed hereinabove shall prejudice the case of the petitioner/accused at the trial.

C.C. as per rules.

**(ANIL VERMA)**  
**JUDGE**