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

131+314

CRM-M-24317-2026 (O&M)
Date of decision : 29.07.2026

Ankit Aggarwal

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Jasraj Singh, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 528 of the BNSS, 2023, is for quashing of Complaint No. COMA/148 of 2026 dated 03.02.2026, titled as *State v. Nitin Goyal and others*, along with all consequential proceedings arising therefrom, including the summoning order dated 04.02.2026, as corrected vide order dated 05.03.2026, passed by the learned Chief Judicial Magistrate, Karnal, whereby the petitioner has been summoned to face trial for offences punishable under Sections 18(a)(i), 18(a)(vi) and 18(b) read with Sections 16(1)(a), 17(c), 17-A(f) and 17-B(d), punishable under Sections 27(d), 27(b)(i) and 27(c) of the Drugs and Cosmetics Act, 1940 (*for short 'the Act, 1940'*) and the Rules framed thereunder.

2. As per the allegations contained in the complaint, on

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22.08.2024, the complainant, being the Drugs Control Officer, conducted an inspection of M/s Nitin Medicose, where accused No.1, Nitin Goyal, proprietor-cum-registered pharmacist, was present. During inspection, seven samples of allopathic drugs were drawn, including one sample of Capsule Ceemox-L (Amoxycillin & Cloxacillin Capsules), Batch No. APC-0213, Manufacturing Date 03/2024, Expiry Date 02/2026, manufactured by M/s Alentia Pharma (now M/s Greycross Healthcare). The sample was divided into four portions in accordance with Section 23(3) of the Act, 1940 and one sealed portion was sent to the Government Analyst, Chandigarh, for test and analysis. The Government Analyst, vide Form-13 dated 25.02.2025, declared the sample to be "Not of Standard Quality", observing that the sample failed the assay test as Cloxacillin Sodium content was found to be 141.44 mg per capsule against the declared strength of 250 mg. Thereafter, show-cause notices under Sections 18-A and 18-B of the Act, 1940 were issued to the retailer, distributor and other entities in the supply chain to ascertain the source of procurement of the drug. On the basis of replies received, the chain of distribution was traced from M/s Nitin Medicose to M/s Dr. Arora Healthcare Pvt. Ltd., thereafter to M/s Medimax International, then to M/s Saralife Healthcare and ultimately to the manufacturer M/s Greycross Healthcare (formerly M/s Alentia Pharma).

3. As per the further allegations, a show-cause notice dated 05.03.2025 was issued to the manufacturer/firm of the petitioner i.e. M/s Greycross Healthcare, which submitted its reply dated 03.04.2025. According to the complainant, the said reply was found to be evasive and

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unsatisfactory. Consequently, after obtaining details regarding the constitution of the firms and the responsible partners/directors, the complaint was instituted against as many as nine accused, including the present petitioner, who was alleged to be the responsible partner of the manufacturing firm, for prosecution under the relevant provisions of the Act, 1940, whereby the accused including the petitioner was summoned to face trial in the aforesaid complaint. Aggrieved thereof, the petitioner has filed the present petition seeking quashing of the complaint, summoning order as well as the subsequent proceedings having arisen therefrom.

4. It is argued by learned counsel for the petitioner that the impugned complaint and the summoning order are liable to be quashed as the mandatory procedure prescribed under Section 25(3) and 25(4) of the Act, 1940 has not been complied with. It is submitted that the prosecution has been launched without ensuring the petitioner's statutory right to have the sample re-tested by the Central Drugs Laboratory, thereby causing serious prejudice to the manufacturer. It is argued that although the manufacturer had responded to the show-cause notice, the complaint came to be filed after an unexplained delay of about ten months, by which time the valuable right of re-analysis had been rendered illusory.

5. It is further argued by learned counsel for the petitioner that the prosecution itself proceeds on the erroneous assumption that the manufacturer had not challenged the Government Analyst's report under Section 25(3) of the Act, whereas the statutory scheme obligates the prosecution and the Court to preserve the manufacturer's right of re-testing.

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It is also submitted that there has been gross violation of Rule 45 of the Drugs and Cosmetics Rules, 1945, inasmuch as the sample, received by the Government Analyst on 30.08.2024, was analysed only on 25.02.2025, i.e. after more than six months, despite the Rule requiring analysis within sixty days and there being no material showing extension of time. It is further argued that the impugned summoning order is a cryptic and non-speaking order, passed without recording adequate reasons or indicating the specific role and responsibility of each of the persons summoned. It is submitted that the order has also been passed in violation of the mandatory requirement contained in Section 225 BNSS. It is lastly argued that the complaint is fundamentally defective as it does not disclose that the prescribed storage conditions relating to temperature, light and moisture were maintained during collection, transportation and testing of the sample, thereby rendering the prosecution case unreliable. The impugned summoning order is totally a non-speaking order. The trial Magistrate has taken cognizance of the complaint without compliance of the provisions of Section 225 of the BNSS. On these grounds, it is urged that the complaint, the summoning order and all consequential proceedings are liable to be quashed and the petition deserves to be allowed. To fortify his arguments, learned counsel for the petitioner has relied upon the authorities cited as ***Laborate Pharmaceuticals India Ltd. v. State of Tamil Nadu, (2018) 15 SCC 93, M/s Medicamen Biotech Ltd. v. Rubina Bose, Drug Inspector, 2008 (7) SCC 196, JM Laboratories v. State of Andhra Pradesh, 2025 INSC 127 and Birla Corporation Limited v. Adventz Investments and Holdings Limited, 2019***

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INSC 663.

6. Reply has been filed by the respondent-State. Learned State counsel has argued that the present petition is devoid of any merit and deserves dismissal as the complaint is filed and the summoning order has been passed after due compliance with the mandatory provisions of the Act, 1940. The sample in question was drawn in accordance with law and, upon analysis by the Government Analyst, was declared "Not of Standard Quality", thereby disclosing commission of offences under the Act. It is further submitted that a thorough investigation was conducted by tracing the supply chain from the retailer to the manufacturer. Despite repeated opportunities, the manufacturing firm failed to produce the requisite statutory records or any material to disprove the findings of the Government Analyst as contemplated under Section 25(4) of the Act, 1940. The firm also failed to indicate its intention to challenge the Government Analyst's report. The investigation established that M/s Greycross Healthcare (formerly M/s Alentia Pharma) was the manufacturer of the impugned drug and that the petitioner was the person responsible for the day-to-day affairs of the manufacturing firm at the relevant time. After obtaining the requisite sanction from the State Drugs Controller, the complaint was filed within limitation and the learned trial Court, upon finding sufficient prima facie material, rightly summoned the petitioner. The issues raised by the petitioner involve disputed questions of fact which can only be adjudicated during trial. At the stage of summoning, the Court is only required to examine whether a prima facie case is made out. Since the complaint discloses the

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commission of offences under the Act, 1940, no ground is made out for exercising the inherent jurisdiction of this Court. Hence, it is urged that the petition is liable to be dismissed.

7. This Court has heard the rival submissions.

8. So far as the contention of learned counsel for the petitioner that there was non-compliance of Section 25(3) of the Act, 1940 is concerned, the same cannot be accepted. As per this provision, any document purporting to be a report signed by a Government Analyst shall be evidence of the facts stated therein and such evidence shall be conclusive unless the person from whom the sample was taken has, within 28 days of the receipt of a copy of the report, notified in writing the Inspector or the Court before which any proceedings in respect of the sample are pending that he intends to adduce evidence in controversion of the report. Meaning thereby, the petitioner was required to challenge the said report within a period of 28 days from the date when it was served upon him. A perusal of the record reveals that the show cause notice along with test report was served upon the petitioner on 05.03.2025. However, he sent his reply only on 03.04.2025, which was received by the respondent on 09.04.2025. Hence, the same was clearly beyond the period of 28 days as prescribed under the aforesaid provision.

9. Now let us consider the next contention of learned counsel for the petitioner. It has been argued that though the sample was received by the Govt. Analyst on 30.08.2024. However, the sample was tested and reported as 'not of standard quality' only on 25.02.2025, i.e. after a gap of more than 05 months. This contention of the petitioner deserves acceptance. Rule 45 of

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the Drugs and Cosmetic Rules, 1945 reads as under:

45. Duties of Government Analysts.-

(1) The Government Analyst shall cause to be analysed or tested such samples of drugs as may be sent to him by Inspector or other persons under the provisions of Chapter IV of the Act and shall furnish reports of the results of test or analysis in accordance with these rules ***within a period of sixty days of the receipt of the sample:***

Provided that where it is not possible to test or analyse the sample within the specified period, the Government Analyst shall seek extension of time from the Government giving specific reasons for delay in such testing or analysis.

10. A perusal of the record reveals that the sample was received by the Govt. Analyst on 30.08.2024. However, the sample was tested and reported as 'not of standard quality' only on 25.02.2025 and the report as such was received by the respondent on 28.02.2025. There is nothing on record to show that any extension whatsoever was sought by the Govt. Analyst giving any specific reason for the delay in testing or analysis.

11. At this stage, reference can be made to a recent judgment of the Himachal Pradesh High Court in ***M/s Crystal Pharmaceuticals and Another v. State of Himachal Pradesh, Cr.MMO No.1336 of 2024, decided on 10.07.2026***, wherein a similar issue came up for consideration and after noticing that the Government Analyst's report had been issued beyond the period of sixty days prescribed under Rule 45, the High Court held that the statutory mandate had been violated and that such non-compliance, coupled with the resultant prejudice to the accused, rendered continuation of the

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prosecution an abuse of the process of law. The High Court also observed that once the mandatory timeline prescribed under Rule 45 is breached without any explanation or extension in terms of the Rule, the prosecution cannot be permitted to continue merely on the strength of the belated analyst's report. Applying the aforesaid principle to the facts of the present case, this Court finds that the unexplained delay in issuance of the Government Analyst's report is a circumstance which goes to the root of the prosecution case and vitiates the entire proceedings.

12. Reference can also be made to ***Ashwani and others v. State of Maharashtra (Criminal Writ Petition No. 967 of 2024, decided on 17.01.2026)***, wherein while interpreting Rule 45, it was held by Bombay High Court that the timeline prescribed therein cannot be treated as an empty formality. The Court observed that timely analysis is essential to preserve the quality and integrity of the sample and to safeguard the valuable statutory rights available to the accused. It was further held that where extension is sought after expiry of the prescribed period, or where there is nothing to show that such extension was granted by the Government, the prosecution cannot be permitted to continue, as the proceedings stand vitiated on account of non-compliance with Rule 45. The Court also emphasized that the statutory authorities are under a corresponding obligation to strictly adhere to the timelines prescribed under the Act and the Rules, failing which the very object of the legislation stands defeated.

13. This Court finds itself in agreement with the aforesaid view. The timeline incorporated in Rule 45 has been introduced to ensure prompt

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analysis of drug samples, maintain their evidentiary reliability and preserve the statutory safeguards available to the persons sought to be prosecuted. Once the legislature has prescribed the manner in which delay can be condoned, namely by obtaining an extension from the Government upon assigning specific reasons, the authorities are bound to act strictly in accordance with that procedure. Failure to do so renders the subsequent analyst's report legally vulnerable and seriously undermines the prosecution founded thereupon.

14. Another circumstance which casts serious doubt on the validity of the impugned summoning order is the casual manner in which the learned trial Court proceeded to issue process against the petitioner. A perusal of the order dated 04.02.2026 reveals that while summoning the accused, the learned Magistrate did not even specify the offences for which they were being summoned. It was only subsequently, vide order dated 05.03.2026, that the summoning order was sought to be "corrected" by incorporating the penal provisions under which the accused were required to face trial. Moreover, even after the subsequent correction, the summoning order remains wholly non-speaking. It neither records any reasons nor reflects consideration of the ingredients of the offences alleged against the petitioner or his specific role in the commission thereof. The order merely directs issuance of process without disclosing the basis on which the learned Magistrate formed an opinion that sufficient grounds existed to summon the petitioner. Such an order, bereft of any indication of judicial application of mind, falls short of the settled requirement that although elaborate reasons

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are not necessary at the stage of summoning, the order must nevertheless disclose that the Magistrate has independently examined the material on record and consciously arrived at a prima facie satisfaction before setting the criminal law in motion. The Hon'ble Supreme Court in ***Pepsi Foods Ltd. v. Special Judicial Magistrate, (1998) 5 SCC 749*** has emphatically held that summoning an accused is a serious matter and cannot be undertaken in a mechanical manner. The Magistrate is required to carefully scrutinize the allegations and the preliminary evidence and the order issuing process must itself reflect application of judicial mind. Mere recording of statements of the complainant and witnesses is not sufficient; the Magistrate is under an obligation to examine whether a prima facie case is actually made out before directing issuance of process. In view of the above position of law, the impugned summoning order dated 14.10.2024 cannot be sustained.

15. In view of the discussion as made above, this Court is of the considered opinion that continuation of proceedings under the impugned complaint against the petitioner would amount to abuse of process of law. Accordingly, the petition is allowed. The impugned complaint, summoning order and all the subsequent proceedings having emanated therefrom are hereby quashed qua the petitioner herein.

29.07.2026

Waseem R. Ansari(MANISHA BATRA)
JUDGE*Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*