

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

CRR No.1753-2015

Date of decision : 21.12.2015

Gurwinder Singh

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. I.S.Pabla, Advocate
for the petitioner.

Ms. Amarjit Kaur Khurana, Addl. AG, Punjab.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This revision petition has been filed under Section 401 Cr.P.C.
against the impugned order dated 15.04.2015 passed by the Judge Special
Court, Patiala whereby the petitioner was summoned as accused to face the
trial under Section 15 of NDPS Act pursuant to application under Section
319 Cr.P.C.

Mr. Gurmeet Singh Chauhan, IPS, Senior Superintendent of
Police, Patiala is present and has accepted that on the both occasions

information was sent but it was not forwarded either to the I.O. or to him and now departmental proceedings have been initiated against that official.

Explanation is accepted.

Short affidavit of Gurmeet Singh Chauhan, IPS, Senior Superintendent of Police, Patiala on behalf of State of Punjab-respondent has been filed and the same is taken on record.

In pursuance to the order dated 11.12.2015 the learned Additional Advocate General has placed on record a copy of order dated 18.12.2015 giving bail to the Investigating Officer and the SSP, Patiala on their furnishing bail bonds in the sum of Rs.50,000/- and the same is also taken on record.

Learned counsel for the petitioner has argued that as per the allegations in the FIR the police had received secret information that 4 persons including the petitioner were smuggling poppy husk. The police laid a naka and they signaled the car to stop. Three persons including the petitioner were able to evade arrest and they ran away while the fourth was arrested. The arrested person also disclosed that the petitioner was one of his accomplices. During the investigation the police found the petitioner to be innocent but now during trial he has been summoned as an additional accused under Section 319 Cr.P.C. Learned counsel for the petitioner has argued that it was not stated by the police officers that they know the petitioner and therefore, it has to be concluded that their only basis for identifying the petitioner was either the information given to them by the secret informer or the disclosure statement made by the arrested accused.

As per him this identification can not be taken to be a valid identification

and therefore the trial Court erred in coming to the conclusion that there is credible evidence against the petitioner.

Learned Additional Advocate General has accepted that there is no statement by any of the police officials that they knew the petitioner prior and were therefore identifying him on the basis of their prior knowledge.

Consequently the petition is allowed and the impugned order dated 15.04.2015 is set aside.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

December 21, 2015

Pooja sharma-I

**(AJAY TEWARI)
JUDGE**