

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-8433 of 2017

.....

Date of decision:16.5.2017

Ali Taheer

...Petitioner

v.

State of Punjab and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Jagjit Singh, Advocate for the petitioner.

Mr. J.S. Bhullar, Assistant Advocate General, Punjab for the
respondent-State.

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Inderjit Singh, J.

This criminal miscellaneous petition has been filed by the petitioner under Section 482 Cr.P.C. for directing respondent No.2 to conduct a fair and impartial inquiry in FIR No.113 dated 01.06.2016, registered for the offence under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the NDPS Act') at Police Station Fatehgarh Sahib, District Fatehgarh Sahib on application dated 19.12.2016 (Annexure-P.2) from some independent Higher Cadre Officer or from Crime Branch.

Notice of motion was issued in this case.

Mr. J.S. Bhullar, learned Assistant Advocate General, Punjab has put in appearance on behalf of the respondent-State and contested this petition.

I have heard learned counsel for the petitioner and learned State counsel and have gone through the record.

From the record, I find that the challan in the present case has already been presented before the trial Court on 5.10.2016 as stated by learned State counsel and the charges have already been framed on 15.11.2016, but no witness has been examined so far. The present petition is dated 9.3.2017, which means that this petition has been filed after about four months of framing of the charges against the petitioner. It is admitted at the time of arguments by the learned counsel for the petitioner that no revision petition has been filed against the framing of charges.

Learned counsel for the petitioner argued that the petitioner has been falsely implicated in the case and qua that fact fair and impartial inquiry should be conducted by respondent No.2. Learned counsel for the petitioner also admitted that the petitioner has not filed any application before the trial Court under Section 173(8) Cr.P.C. for getting conducted further investigation in the matter.

Learned counsel for the petitioner at the time of arguments has also not shown any cogent evidence from which *prima facie* it can be held that the accused-petitioner is innocent. It is defence of the accused that he is innocent and has been falsely implicated and this fact is to be proved by him before the trial Court by bringing defence evidence. If there is some material or evidence with the petitioner, he can approach the Court as per law asking for further investigation under Section 173(8) Cr.P.C.

As the trial Court has already taken a cognizance and charges

have already been framed, therefore, this petition for getting conducted fair and impartial inquiry from respondent No.2 is not maintainable, hence the same is dismissed.

However, the petitioner is at liberty to approach the Court by filing application under Section 173(8) Cr.P.C., and if any such application is filed, the Court concerned may decide it as per law.

However, nothing stated above, will be construed as expression of opinion on the merits of the case.

May 16, 2017.

(Inderjit Singh)
Judge

hsp

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