

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CrI. Misc. No. M-11083 of 2018  
Date of Decision: March 15, 2018

Davinder Singh @ Bindu

.....Petitioner

versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL**

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Present: Mr. P.S. Sekhon, Advocate  
for the petitioner

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**Sudhir Mittal, J. (Oral)**

The petitioner seeks quashing of order dated 24.10.2017 (Annexure P-5) whereby he has been summoned as an additional accused in FIR No. 114 dated 22.08.2015 registered at Police Station Moonak, District Sangrur, under Section 22 of the NDPS Act, 1985.

Learned counsel for the petitioner has drawn my attention to order dated 30.11.2015 (Annexure P-2) whereby the petitioner was discharged by the learned Additional Sessions Judge, Sangrur. The submission is that once the petitioner had been discharged, he could not have been summoned as an additional accused under Section 319 Cr.P.C. without complying with the provisions of Sections 300(5) and 398 Cr.P.C. For this purpose he has placed reliance upon judgment of the Hon'ble Supreme Court in *Hardeep Singh vs. State of Punjab, 2014(1) RCR(Criminal) 623*.

I have gone through the impugned order and also through the facts brought on record. The petitioner was discharged vide order dated 30.11.2015 (Annexure P-2) during the pendency of the investigation. Challan had not yet been presented and it is not clear under which provision of law the said order was passed. It appears that the Investigating Officer exercised powers under Section

169 Cr.P.C. but in such a case there was no requirement to approach the trial Court. Be that as it may order dated 30.11.2015 (Annexure P-2) can not be equated with the order of discharge under Section 227 Cr.P.C. and, therefore, the judgment of ***Hardeep Singh's case (supra)*** is not attracted.

In this view of the matter, there is no error in the impugned order.

Accordingly, the petition is dismissed.

March 15, 2018

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**[SUDHIR MITTAL]**  
**JUDGE**

**Whether speaking/reasoned : Yes/No**

**Whether Reportable : Yes/No**