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

CRM-M-62210-2023
Decided on : 11.12.2023

Kishmish Garg

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Preetwinder Singh Dhaliwal, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

Instant petition has been filed under Section 407 Cr.PC r/w Section 482 Cr.PC for transfer of the case bearing No.NDPS/334/2019 in FIR No.44 dated 04.04.2019 under Section 21 of NDPS Act registered at Police Station Nihal Singh Wala District Moga.

2. Learned counsel for the petitioner *inter alia* contends that subsequent to the registration of the FIR in question, an application for fair investigation had been moved by his brother before the I.G., Ferozpur range; the said application was thereafter marked to Superintendent of Police (D) Faridkot, who thoroughly investigated the matter. While drawing the attention of this Court to the report dated 26.08.2019 annexed as Annexure P-2, learned counsel has further submitted that it was a matter of record that the petitioner had been subsequently declared innocent and placed in column no.2. Furthermore,

the prosecution thereafter moved an application seeking discharge of the petitioner, which was erroneously dismissed by the trial court vide order dated 13.07.2023. Learned counsel has vehemently urged that since the trial court had taken *suo moto* cognizance of the offence in question against the petitioner having summoned him under Section 319 Cr.PC, despite the investigating agency finding him innocent and placing him in Column No.2, there existed a reasonable apprehension in his mind that he would not get a fair trial before the concerned Court. A prayer, therefore, has been made to transfer the case in hand to any other Court of competent jurisdiction.

3. Heard learned counsel and perused the relevant material available on record.

4. Merely because the Court below has exercised its powers under Section 319 Cr.PC to summon the petitioner cannot be a ground to seek transfer of the case from the Court concerned. A Court is well empowered to even exercise its powers under Section 319 Cr.PC *suo moto*.

5. This Court does not find any merit in the instant petition for transferring the case bearing No.NDPS/334/2019 in FIR No. 44 dated 04.04.2019 under Section 22 of NDPS Act,1985 from the Court of Special Judge, Moga to any other court of competent jurisdiction. Accordingly, the present petition stands dismissed.

6. However, it is made clear that anything observed

hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

11.12.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No