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**IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH**CRR-1067-2024 (O&M)
Decided on: 27.05.2024

Sewa Singh

.... Petitioner

versus

State of Haryana

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAULPresent: Mr. Satnam Singh Gill, Advocate
for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

Manjari Nehru Kaul, J. (Oral)

The petitioner-accused is impugning the order dated 06.05.2024 passed by Addl. Sessions Judge, Karnal whereby an application filed by the prosecution under Section 311 Cr.PC was allowed.

2. The brief facts of the prosecution case are as follows: on 04.06.2018, while patrolling near Pucca bridge, Madhuban, the police received a secret information about a white Swift Dzire car bearing registration No.HR-26-AB-4302, parked in an accidental condition at the turning of Kutel. Upon reaching the spot, the vehicle in question was indeed found there. A search revealed 9 heavy plastic bags in the trunk of the car, each labelled "Use No Hooks Sun Rose Dextrose Monohydrate Gujarat Ambuja Export Ltd.". When these bags were inspected, they were found to contain poppy straw totalling 90 kgs 900 grams. Consequently, FIR No.189 dated 04.06.2018 was registered under Sections 15 and 25 of the NDPS Act at Police Station Madhuban District



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Karnal against the driver of the car. The recovered poppy straw along with the car and its keys, were seized and sealed by the police. The petitioner was arrested based on the ownership of the car.

3. Learned counsel for the petitioner has argued that the impugned order whereby an application under Section 311 Cr.PC was allowed, was patently illegal. MHC from Police Station City-1, Sangrur, was not cited as a witness, and under the Evidence Act, such witness could not be introduced as a witness since he was not even a material witness to the case in hand. Learned counsel further argued that application under Section 311 Cr.PC was filed belatedly after the prosecution had concluded its evidence, and allowing it at this stage would seriously prejudice the case of the petitioner. Learned counsel submits that in fact, the sole intent behind filing of the present application under Section 311 Cr.PC was to delay the trial, which has been pending for the prosecution evidence since the year 2019.

4. Per contra, learned State counsel while opposing the prayer made by the counsel opposite has argued that the case involved the recovery of 90 kgs 900 grams of poppy straw from the car of the petitioner. The petitioner had admitted the ownership of the car, which he purchased from one Pilla Singh, in an application moved before Police Station City-1, Sangrur. Therefore, MHC from Police Station City-1, Sangrur along with relevant records, had been summoned to substantiate this claim of ownership. Learned State counsel has also asserted that the impugned order would not prejudice the case of the petitioner in any manner as he would get ample opportunity to cross-examine the said



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witness. She has further asserted that this additional evidence was most crucial for the fair and just decision of the case.

5. Heard learned counsel for the parties and perused the relevant material on record.

6. Section 311 Cr.PC aims to prevent any miscarriage of justice by ensuring that all essential and material evidence is brought on record, allowing for fair decision. An application under Section 311 Cr.PC can be filed at any stage of the trial, before the final order is pronounced.

7. Considering the grounds on which the prosecution moved an application under Section 311 Cr.PC, the trial Court summoned MHC from Police Station City-1, Sangrur with the relevant records. This Court does not find any reason to accept the prayer made by the petitioner and set aside the well reasoned order passed by the trial Court as ownership of the car pursuant to the admission of the petitioner would go a long way to help the trial Court at arriving at a just decision. The petitioner has failed to thus, demonstrate any prejudice, which may have been caused to him by the impugned order.

8. As a sequel to the above, the present petition being devoid of any merit, stands dismissed. 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.

27.05.2024

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Whether speaking/non-speaking?
Whether reportable?

(MANJARI NEHRU KAUL)

JUDGE

Yes/No
Yes/No