

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

**Neutral Citation No. 2024:PHHC:008853
CRM-1354-2024 in/and
CRM-M-38688-2019**

Date of Decision: January 23, 2024

Sukhpal Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. P.P.S. Tung, Advocate for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

DEEPAK GUPTA, J.(Oral)

CRM-1354-2024

For the reasons as mentioned in the application, the same is allowed and the main case i.e. CRM-M-38688-2019 is pre-poned from 23.04.2024 for today itself and is taken on Board for hearing.

Main Case

By way this petition under Section 482 Cr.P.C. petitioner prayed to quash FIR No.95/97 dated 25.10.1997, under Section 25 of Arms Act, 1959, besides Sections 4 and 5 of the Explosive Act, registered at Police Station Sultanwind, District Amritsar alongwith subsequent proceedings arising out of the same.

2. Learned counsel has contended that FIR was registered way back in 1997. A period of more than 25 years has lapsed, but investigation qua petitioner is not completed till date. Learned counsel further submits that police had earlier moved an application on 21.12.2001 (Annexure P2) for discharge of the petitioner on the plea that nothing had been recovered from the petitioner and so, challan could not be prepared, but till date even that application has not been disposed of.

3. Status report by way of affidavit dated 28.10.2020 of Shri Mangal Singh, Assistant Commissioner of Police, South, Amritsar City has been filed on behalf of respondent Nos.1 to 3, which would reveal that FIR in question was registered on the complaint of Inspector Udham Singh, as per which Satnam Singh (co-accused) had suffered a disclosure statement to the effect that he had been handed over a consignment of 07 packets containing explosive material and poisonous substance after getting it smuggled from Pakistan and that he (Satnam Singh) had handed over the some of the articles to petitioner – Sukhpal Singh, who had come to Amritsar. Petitioner was arrested on 10.11.1997 by Inspector Udham Singh and on the basis of disclosure statement suffered by him, consignment of illegal weapons and explosive material was recovered from the sugarcane fields of the petitioner, situated at village Naranwal Khurd in the presence of local police, Police Station Dehlon, District Ludhiana. Since recovery was falling in the jurisdiction of Police Station Delhon, District Ludhiana, so a separate FIR No.75 dated 11.11.1997 was registered at Police Station Dehlon, District Ludhiana, against the petitioner. Challan of the case was prepared on 15.03.1999 against co-accused Satnam Singh. However, nothing is mentioned regarding the role or status of the investigation qua the present petitioner nor the case diary is available in the police station in this regard.

4. Status report further reveals that Satnam Singh (co-accused) was convicted for 07 years imprisonment on 12.07.2004 by the Court of learned Addl. Sessions Judge, Amritsar, but again there is no mention about the petitioner in the order passed by the Trial Court. Status report

further says that Investigating Officer had moved an application to the Copying Agency of Sessions Court, Amritsar on 04.01.2020 to obtain the copy of the report under Section 173 Cr.P.C. of the present case and the judgment dated 12.07.2004, but the same were not provided and it was reported by the Superintendent of District and Sessions Judge, Amritsar that file had been destroyed by General No.3372/2004. Copy of the application and the report are Annexures R-2/T and R-3/T.

5. The status report concludes that though petitioner was arrested on 25.10.1997 in the present case, but there is nothing on record in the police file with regard to the status of the petitioner as to whether he was challaned or not, or as to whether he was discharged or convicted/acquitted or not.

6. Learned counsel for the petitioner has drawn attention towards Annexure P-2, which was an application moved by the police before learned Judicial Magistrate 1st Class, Amritsar, way back on 21.12.2001, so as to discharge the petitioner. As per this application, as after recovery from the petitioner, separate FIR No.75 dated 11.11.1997 under Section 25 of the Arms Act, besides Sections 4 and 5 of the Explosive Act was registered at Police Station Dehlon, District Ludhiana, the case was being heard by learned Magistrate, Ludhiana and nothing had been recovered from the petitioner in the present case. It is contended further that petitioner has already been acquitted in case FIR No.75 dated 11.11.1997, under Section 25 of the Arms Act, besides Sections 4 & 5 of the Explosive Act, registered at Police Station Dehlon, District Ludhiana, vide judgment dated 05.03.2011 (Annexure P-4), as is referred in the

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status report as well as in the discharge report.

7. Having regard to all the aforesaid facts and circumstances as are borne out from the status report filed by the respondent-State and the discharge application (Annexure P-2), continuation of the present proceedings in case FIR No.95/97 dated 25.10.1997 registered at Police Station Sultanwind, District Amritsar shall be just miscarriage of justice. Record is not available anywhere, neither in the police station nor with the Court at Amritsar. Petitioner has already been acquitted in case FIR No.75 dated 11.11.1997, under Section 25 of the Arms Act, besides Sections 4 & 5 of the Explosive Act, registered at Police Station Dehlon, District Ludhiana, vide judgment dated 05.03.2011 (Annexure P-4), as is referred in the status report as well as in the discharge report. The sword of pendency of criminal matter is hanging on the head of the petitioner.

8. Consequently, present petition is allowed. FIR No.95/97 dated 25.10.1997, under Section 25 of Arms Act, 1959, besides Sections 4 and 5 of the Explosive Act, registered at Police Station Sultanwind, District Amritsar alongwith subsequent proceedings arising out of the same, qua the petitioner stand quashed.

Allowed.

January 23, 2024

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(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No