

CRM-M-48476-2023

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

(273)

CRM-M-48476-2023

Date of Decision:-22.03.2024

Sukhchain Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Ashok Giri, Advocate for the petitioner.

Mr. P.S. Grewal, DAG, Punjab.

ALOK JAIN, J.

1. The present petition is for quashing/setting aside the impugned order dated 13.09.2023 (Annexure P-4) passed by the learned Trial Court whereby at the fag end of trial, an application moved by prosecution under Section 311 Cr.P.C. was allowed.

2. Learned State counsel has filed status report by way of affidavit of Yogesh Kumar, PPS, Deputy Superintendent of Police, Special Task Force, Jalandhar Range, District Jalandhar on behalf of respondent-State, which is taken on record.

3. Learned counsel for the petitioner has submitted the factual matrix, which is as under: -

- i. On 20.01.2020, the present petitioner was apprehended by the police officials on a secret information and consequently 450 gms. Heroin and an un-licenced fire arm were recovered at the instance of the

petitioner and the co-accused. The petitioner was the driver of the vehicle from which the recovery was made.

- ii. The challan was presented on 07.04.2021 and 15 PWs were examined. Statement of the accused under Section 313 Cr.P.C. was recorded on 02.08.2023 and the defence evidence commenced. The case was fixed for arguments on 04.09.2023.
 - iii. On 04.09.2023, an application under section 311 Cr.P.C. was moved by the prosecution stating that two new official witnesses are to be examined and MHC Jagdish Lal is to be re-examined.
 - iv. The said application was allowed by ASJ/JSC, Jalandhar on 13.09.2023 stating that the examination of the said witnesses is necessary for proper adjudication in the trial and dispensation of justice.
4. Learned counsel for the state has vehemently opposed the present petition and has submitted that the provisions of Section 311 Cr.P.C., start with the words “any court may, at any stage of enquiry, trial or other proceedings.....” and, therefore, there is no bar or limitation to file an application under the said provision. He further submits that the witnesses sought to be recalled were necessary for the prosecution to successfully prove the guilt of the petitioner beyond reasonable doubt. The witnesses now sought to be called/recalled are in response to the defence evidence from where the defence had sought to raise a ground that the parcel which was sent to the FSL was received back with certain objections and again sent to the laboratory, though neither side alleged that the seal of the parcel was ever tampered with. More so, the testimony of such

witnesses shall not cause any prejudice to the petitioner who will get an appropriate opportunity to cross-examine them.

4. Heard learned counsel for the parties. Considering the fact that the prosecution has every right to prove its case in accordance with law and all the witnesses are the official witnesses and their testimony would enable the trial Court to decide the guilt/innocence of the accused in a just and fair manner, further no prejudice will be caused to the accused who will still have the opportunity to cross-examine the witnesses sought to be summoned, hence, this Court does not find any merit in the present petition.

5. Accordingly, the same stands dismissed.

(ALOK JAIN)
JUDGE

March 22, 2024

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Whether speaking/reasoned:- Yes/No

Whether Reportable:- Yes/No