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

CRR-964-2023**Date of Reserve:22.04.2026****Date of Decision:08.06.2026**

Gurmukh Singh Cheema

...Petitioner

Vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. H.S Batth, Advocate
for the petitioner.

Mr. M.S Bajwa,DAG, Punjab.

N.S.Shekhawat J.

1. The petitioner has filed the present revision petition against the impugned order dated 27.01.2023 passed by the Judge, Special Court, Ludhiana, whereby, the charge under Section 58 of the NDPS Act was ordered to be framed against him and order dated 10.02.2023, whereby, the application filed by him for discharge was ordered to be dismissed.

2. Certain facts, which are admitted by both the parties are that on 23.10.2004, Gulzar Singh, S.I received a secret information to the effect that Gurdeep Singh @ Kooka was indulging in the business of selling the opium and a raid was conducted at his house. He had kept 720 grams of opium in a room, where, electric motor was installed and during search, the opium was taken into possession by the police. The petitioner, who was working as D.S.P(D) was directed by his officers to reach at the spot and he told Gulzar Singh, SI, I.O not to arrest Gurdeep Singh @ Kooka. Father of Gurdeep Singh @ Kooka



submitted an application to the S.S.P Jagraon, who marked the enquiry to Jaspal Singh Dhanoa, Superintendent of Police (D). During enquiry before Jaspal Singh Dhanoa, Superintendent of Police (D), Mangat Ram made a confessional statement that he got the contraband planted in the house of Gurdeep Singh @ Kooka, on the asking of Manwinder Singh and Sardool Singh in order to settle the old scores. Finally, the challan was presented against Mangat Ram, Sardool Singh, Manwinder Singh and Jaspal Singh @ Bhau, however, Gurdeep Singh @ Kooka was declared innocent. However, the Special Court, Ludhiana still summoned Gurdeep Singh @ Kooka to face trial, whereas, Mangat Ram @ Mangi, Sardool Singh, Manvinder Singh and Jaspal Singh @ Bhau were discharged. During trial, Gurdeep Singh @ Kooka confessed his guilt and was convicted under Section 18 of the N.D.P.S Act.

3. In the meantime, feeling aggrieved by the discharge of Mangat Ram @ Mangi, Sardool Singh, Manvinder Singh and Jaspal Singh @ Bhau, State of Punjab filed criminal revision before this Court and vide the order dated 06.05.2011, this Court issued directions to the Director General of Police, Punjab to take action against S.I Gulzar Singh and the petitioner i.e. DSP (D), Jagraon for registration of a false case against Mangat Ram @ Mangi, Sardool Singh, Manvinder Singh and Jaspal Singh @ Bhau. As a consequence, the present FIR No.46 dated 14.03.2012, under Section 58 of NDPS Act, Police Station Sadar, Jagraon was ordered to be registered against the petitioner as well as S.I., Gulzar Singh. However, after investigation, a cancellation report was prepared and presented before the Special Court, Ludhiana, however, again the Special Court, Ludhiana rejected the cancellation report and ordered the summoning of Jaspal Singh Dhanoa, S.P (D) Jagraon, the petitioner i.e. DSP



(D) Jagraon, Gulzar Singh, I.O, Mangat Ram @ Mangi, Baljit Kaur, Gurdeep Singh @ Kukka and Baldev Singh to face trial under Section 58 of the N.D.P.S Act.

4. Learned counsel for the petitioner contends that as per the case of the prosecution, 720 grams of opium was allegedly recovered from the house and a tubewell room of Gurdeep Singh @ Kooka. When the petitioner reached at the spot, he had directed S.I Gulzar Singh not to arrest the accused as he found the facts to be suspicious. Even after registration of the present FIR, the investigation was carried out by the police and a cancellation report was presented qua the petitioner and there was no material on record to prove the involvement of the petitioner in the crime. Learned counsel further submits that even the discharge application moved by him was dismissed by the Trial Court by adopting a casual approach and the impugned order is unsustainable. The Trial Court failed to appreciate that S.I Gulzar Singh and other accused were tried by the Special Court, Ludhiana and vide the judgment dated 15.01.2020 (Annexure P-15), the Trial Court held that the prosecution had miserably failed to bring home the guilt of S.I Gulzar Singh and other accused and they were ordered to be acquitted of the charge framed against them. However, the case of the petitioner was on better footing as he had also directed Gulzar Singh, S.I not to even arrest Gurdeep Singh @ Kooka. Learned counsel further submits that repeatedly the investigation has been conducted in the present case and every time, the petitioner was found to be innocent. Apart from that, the petitioner had neither conducted the search or seizure of the contraband nor had investigated the matter. He had not even arrested any accused and had simply visited the place of recovery only once at the directions of his senior officers.



Even after reaching, he had only directed S.I Gulzar Singh not to arrest the accused for the time being and except that, there was no role of the present petitioner. Now, with the acquittal of S.I Gulzar Singh, the petitioner had a better case for his discharge in the prosecution case arising out of FIR No.46 dated 14.03.2012, under Section 58 of NDPS Act, Police Station Sadar, Jagraon. However, the Trial Court had completely overlooked the material on record and wrongly dismissed the application for discharge.

5. On the other hand, learned State counsel also submitted that during investigation, the petitioner was found to be innocent and a cancellation report was presented before the Court, however, vide the impugned order, the application for discharge was ordered to be dismissed and the Trial Court had ordered the framing of charge under Section 58 of the NDPS Act against the present petitioner.

6. I have heard learned counsel for the parties and perused the record carefully.

7. From the admitted facts of the parties, it is apparent that the raid on the house of Gurdeep Singh @ Kooka was conducted by S.I Gulzar Singh, I.O of the case and 720 grams of opium was recovered from him. At that time, the petitioner, who was posted as DSP (D) reached the spot and told the I.O not to arrest Gurdeep Singh @ Kooka. Even during the investigation, father of Gurdeep Singh @ Kooka moved an application to the S.S.P Jagraon, who marked the enquiry to Jaspal Singh Dhanoa, Superintendent of Police (D) and during enquiry, it was found that the contraband was planted on Gurdeep Singh @ Kooka at the instance of Mangat Ram @ Mangi, Sardool Singh, Manvinder Singh and Jaspal Singh @ Bhau etc.. However, the Trial Court still decided to



proceed against Gurdeep Singh @ Kooka, who was convicted during trial. Later on, on the directions of this Court, an F.I.R was ordered to be registered against S.I Gulzar Singh and the petitioner. Again the matter was investigated and a cancellation report was presented before the Special Court, Ludhiana. However, the Trial Court took cognizance of the offence and ordered the prosecution of Gulzar Singh, S.I/I.O of the present case, Mangat Ram @ Mangi, Baljit Kaur, Gurdeep Singh @ Kukka and Baldev Singh etc., however, during the course of trial, S.I, Gulzar Singh and others have already been ordered to be acquitted. Moreover, even against the petitioner, a cancellation report has already been presented by the police also and no incriminating evidence was collected against him. Consequently, the Trial Court ought to have allowed the prayer of the discharge, made by the petitioner before the Trial Court as it will be an unnecessary waste of time of the Court and the avoidable expenditure on the State exchequer, specially when the result is also likely to be the same as that in the case of his co-accused.

8. Even in similar circumstances, this Court in the matter of “**Sudo Mandal @ Diwarak Mandal Vs. State of Punjab, 2011(2) RCR (Criminal) 453 held as under:-**

“22. While disposing of these two appeals, we are very much concerned about the absconding village rustic accused namely Radha Mandal, Rajiya Mandal and Sambodh Mandal, who had successfully evaded the dragnet of the police. The Investigating agency has put up a case implanting eye witnesses as against all the accused. Both the eye witnesses projected by the prosecution had not passed the test of trustworthiness. Their own showing would go to establish without any pale of doubt that they could not have witnessed the occurrence. The other materials



produced by the prosecution also did not advance the case of the prosecution any further. The above facts and circumstances have persuaded us to come to a definite conclusion that the accused in this case were not the perpetrators of crime of murder as alleged by the prosecution. The same set of materials would be produced before the Sessions Court on production of the remaining three accused namely Radha Mandal, Rajiya Mandal and Sambodh Mandal. After all the poor innocent labourers had migrated to other places to eke out their livelihood. The appellants herein had in fact suffered imprisonment for such a long time leaving behind their kith and kin, who might have been in dire need of financial support and help from them. Such an unpleasant situation shall not be created for the other three accused against whom also there is no material on record to fasten them with the charge of murder. We seriously pondered over rendering judicial succour to those faceless and voiceless accused who had taken to heels and hidden themselves apprehending the wrath of criminal proceedings for the heinous crime of murder. We are convinced that our judicial arm is not so crippled as to betray the vague hope of the hopeless.

23. We are conscious of the fact situation that those three accused namely Radha Mandal, Rajiya Mandal and Sambodh Mandal had absconded and were declared as proclaimed offenders. They had not faced the trial, but when we find that no case could be made out as against them also with the very same rickety materials, those accused also will have to be relieved of the impending pain of facing the prosecution for murder. Section 482 of the Code of Criminal Procedure reads as follows :-

"Saving of inherent powers of High Court. Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the



ends of justice."

24. The above provisions recognise the inherent powers of the Court to do real and substantial justice, preventing the abuse of the process of the Court. The statutory recognition of the inherent jurisdiction of the criminal Court indicates that there is a power for the criminal Courts to make such an order as may be necessary to meet the ends of justice. We are conscious of the fact that the powers under Section 482 of the Code of Criminal Procedure are to be exercised very sparingly and in exceptional cases where abuse of the process of the Court would result in serious miscarriage of justice. The inherent powers of the Court should not be exercised to stifle legitimate prosecution. But at any rate the settled position is that this Court has the jurisdiction to quash the entire criminal proceedings to prevent the abuse of the process of the Court in order to secure the ends of justice. In our considered view the same inherent powers can be exercised when this Court finds that the innocent accused, who had absconded would simply face the empty formality of trial with the very same unbelievable and untrustworthy evidence, which would ultimately lead to their acquittal. Bringing the absconding accused to face the trial in this case in the above facts and circumstances would amount to abuse of the process of the Court. To secure the ends of justice, we hereby quash the entire proceedings as against the absconding accused namely Radha Mandal, Rajiya Mandal and Sambodh Mandal pending before Judicial Magistrate Ist Class, Bathinda/Sessions Judge, Bathinda, as no useful purpose will be served even if they are procured and ordered to face the trial in this case."

(Emphasis supplied)

9. In view of the above discussion, the present revision petition succeeds and is hereby allowed and the impugned order dated 27.01.2023 passed by the Judge, Special Court, Ludhiana and order dated 10.02.2023 are



ordered to be set aside by this Court and the petitioner is ordered to be discharged.

10. Ordered accordingly.

08.06.2026
hitesh

(N.S.SHEKHAWAT)
JUDGE

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