



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

Sr. No.201

CRM-M-30234-2025
Date of Decision: 19.05.2026

PARKASH SINGH**...Petitioner**

Versus

STATE OF PUNJAB AND ANOTHER**....Respondents****CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU**

Present:- Mr. GBS Dhillon, Sr. Advocate, assisted by
Mr. Jagdeep Singh Bajwa, Mr. Jaskirat Singh and
Mr. Abhimanyu Shastri, Advocates
for the petitioner.

Mr. H.S. Wadhwa, DAG, Punjab.

MANDEEP PANNU, J. (Oral)

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 482 Cr.P.C.) for quashing of the order dated 25.11.2024 passed by the learned Additional Sessions Judge, Ferozepur whereby the petitioner has been summoned as an additional accused on an application under Section 358 of BNSS (erstwhile Section 319 Cr.P.C.) in FIR No.0107 dated 18.10.2019 registered under Sections 302, 324, 323, 148 and 149 IPC at Police Station Zira, District Ferozepur.

2. Learned counsel for the petitioner submits that the petitioner was specifically named in the FIR, however, during the course of investigation, the petitioner was found innocent and was placed in Column No.2. It is contended that in the statement made before the trial Court, no



specific injury has been attributed to the petitioner and the only allegation against him is that he was allegedly armed with a gandasi. Learned counsel further submits that neither any overt act nor any exhortation has been attributed to the petitioner and no injury allegedly caused by the petitioner finds mention either in the medical evidence or in the ocular version. It is further contended that the power under Section 319 Cr.P.C. (now Section 358 BNSS) is required to be exercised sparingly and only in cases where strong and cogent evidence is available indicating the involvement of the proposed accused to the extent that such evidence, if unrebutted, would likely lead to conviction. Reliance has been placed upon the judgments of the Hon'ble Supreme Court in *Hardeep Singh Versus State of Punjab, 2014(3) SCC 92*, *Sagar Versus State of U.P., 2022(2) RCR (Criminal) 344* as well as judgments of this Court in *Chander Singh Versus State of Haryana, 2023(1) Law Herald 806* and *Dheera Ram Versus State of Haryana, 2023(4) RCR (Crl.) 526*. Learned counsel submits that similarly placed co-accused namely Sukhwinder Singh and Gurwinder Singh, against whom also no specific injury was attributed, have already been granted relief and the impugned summoning order dated 25.11.2024 has already been quashed qua them by a Coordinate Bench of this Court while holding that mere presence or general allegation without any specific role would not satisfy the threshold required for summoning under Section 319 Cr.P.C./Section 358 BNSS.

3. Learned State counsel as well as learned counsel appearing on behalf of respondent No.2-complainant oppose the present petition and



submit that the impugned order has been passed after due appreciation of the evidence which had surfaced during the course of trial. It is contended that the complainant while appearing before the learned trial Court specifically reiterated the version given in the FIR and named the petitioner while attributing his presence at the spot along with weapon. It is further submitted that at the stage of exercising powers under Section 358 of BNSS (erstwhile Section 319 Cr.P.C.), meticulous appreciation of evidence is not required and the arguments sought to be raised on behalf of the petitioner are matters to be considered upon conclusion of trial after the entire evidence, including defence evidence, is led before the learned trial Court. It is, thus, argued that there is no illegality or perversity in the impugned summoning order and the same does not warrant interference by this Court in exercise of powers under Section 528 BNSS.

4. I have heard learned counsel for the parties and have perused the paper-book as well as the material available on record. The challenge in the present petition is to the order dated 25.11.2024 passed by the learned Additional Sessions Judge, Ferozepur whereby the petitioner has been summoned as an additional accused under Section 358 BNSS in FIR No.0107 dated 18.10.2019 registered under Sections 302, 324, 323, 148 and 149 IPC at Police Station Zira, District Ferozepur. The occurrence in question took place on 17.10.2019 and the aforesaid FIR came to be registered against nine persons namely Akashdeep Singh, Bohar Singh, Mandeep Singh, Amrik Singh, Sukhwinder Singh @ Sonu, Prakash Singh, Joginder Singh, Bittu @ Gurwinder Singh and Narinder Singh. During



investigation, the present petitioner along with certain other accused was found innocent and accordingly placed in Column No.2. The complainant-Tinder Singh, while appearing before the learned trial Court as PW-2, reiterated the allegations levelled in the FIR and deposed that when he reached near the house of Hardeep Singh, Bohar Singh was standing armed with an iron rod and gave a blow on his person. It was further alleged that Mandeep Singh armed with khanda, Amrik Singh armed with toka, Prakash Singh and Joginder Singh armed with gandasis and Bittu @ Gurwinder Singh armed with kirch were also present at the spot. The complainant further stated that Joginder Singh gave a gandasi blow on his left thigh whereas Bohar Singh and Mandeep Singh caused injuries to his father. However, so far as the present petitioner is concerned, the only allegation levelled is that he was allegedly armed with a gandasi. No specific injury has been attributed to him either in the FIR or in the statement recorded before the learned trial Court.

5. A perusal of the impugned order further reveals that while summoning the petitioner under Section 358 BNSS, the learned trial Court principally proceeded on the basis that the complainant had reiterated the version contained in the FIR during his deposition before the Court. The issue with regard to the scope and ambit of powers under Section 319 Cr.P.C. now Section 358 BNSS is no longer *res integra*. The Hon'ble Supreme Court in ***Hardeep Singh's case (supra)***, while considering the nature of satisfaction required for summoning an additional accused under Section 319 Cr.P.C., categorically held that such power is extraordinary and



discretionary in nature and is required to be exercised sparingly. It was further held that though only a *prima facie* case is to be established from the evidence led before the Court, the degree of satisfaction required is much higher than the standard applicable at the stage of framing of charge. The Constitution Bench specifically observed that the Court must be satisfied that the evidence, if left unrebutted, is such that it would likely lead to conviction of the proposed accused.

6. The Hon'ble Apex Court further observed that the power under Section 319 Cr.P.C. cannot be exercised in a casual or cavalier manner merely because some material exists against a person. Rather, strong and cogent evidence indicating active involvement of the proposed accused is a sine qua non for invoking such jurisdiction. In paragraph 99 of the said judgment, the Hon'ble Supreme Court held that the test to be applied is more than a *prima facie* case as exercised at the stage of framing of charge, but short of satisfaction to an extent that the evidence, if unrebutted, would lead to conviction. The Court further held that in the absence of such satisfaction, the trial Court should refrain from exercising powers under Section 319 Cr.P.C. Similarly, in *Sagar's case (supra)*, the Hon'ble Supreme Court reiterated that mere naming of a person or mere suspicion would not be sufficient for summoning under Section 319 Cr.P.C. unless there exists cogent and convincing evidence demonstrating his active involvement in the commission of offence. A Coordinate Bench of this Court in *Chander Singh's case (supra)* also held that where no specific role or injury is attributed to the proposed accused, the extraordinary power under Section



319 Cr.P.C. ought not to be exercised. Likewise, in *Dheera Ram's case (supra)*, this Court reiterated that the power under Section 319 Cr.P.C. is to be exercised sparingly and only in exceptional circumstances where evidence available on record clearly justifies such invocation. This Court further notices that in the case arising out of the same FIR, a Coordinate Bench of this Court, while deciding *CRM-M-11692-2025 titled Sukhwinder Singh and others Versus State of Punjab and another*, considered the very same summoning order dated 25.11.2024 and examined the deposition made by complainant-Inderjit Singh before the learned trial Court. The Coordinate Bench noticed that though Sukhwinder Singh was alleged to be armed with a toka and Gurwinder Singh @ Bittu was alleged to be armed with a kirch, yet no specific injury or overt act had been attributed to either of them. The Court further observed that even no lalkara or exhortation had been attributed to the said accused persons and their role, as emerging from the FIR and statement before the Court, did not inspire confidence about their involvement beyond the shadow of doubt.

7. After considering the law laid down in *Hardeep Singh's case (supra)*, as well as other judgments including *Chander Singh's case (supra)* and *Dheera Ram's case (supra)*, the Coordinate Bench proceeded to quash the impugned summoning order qua Sukhwinder Singh and Gurwinder Singh while holding that the threshold required for summoning under Section 319 Cr.P.C. was not satisfied. In the present case also, the position is substantially similar. The only allegation against the present petitioner is that he was allegedly armed with a gandas. No specific injury has been



attributed to him either upon the complainant or upon the deceased. Neither any overt act nor any exhortation has been assigned to him. Even as per the deposition of the complainant before the learned trial Court, the injuries allegedly inflicted upon the complainant and deceased have specifically been attributed to other co-accused namely Bohar Singh, Mandeep Singh and Joginder Singh. Merely because the petitioner was named in the FIR or was allegedly present at the spot would not by itself satisfy the stringent test laid down by the Hon'ble Supreme Court for invoking powers under Section 319 Cr.P.C./Section 358 BNSS. The evidence available on record, even if taken at its face value, does not indicate such active and specific involvement of the petitioner which may persuade the Court to form an opinion that the same, if left unrebutted, would likely lead to his conviction. This Court is also unable to lose sight of the fact that similarly placed co-accused namely Sukhwinder Singh and Gurwinder Singh, against whom allegations of similar nature were levelled, have already been granted relief by a Coordinate Bench of this Court by quashing the very same summoning order dated 25.11.2024.

8. In view of the aforesaid discussion and keeping in view the law laid down by the Hon'ble Supreme Court in *Hardeep Singh's case (supra)* and other judgments noticed hereinabove, this Court is of the considered opinion that the impugned order dated 25.11.2024 summoning the present petitioner as an additional accused under Section 358 BNSS cannot be sustained.



9. Accordingly, the present petition is allowed and the impugned order dated 25.11.2024 passed by the learned Additional Sessions Judge, Ferozepur summoning the petitioner as an additional accused in FIR No.0107 dated 18.10.2019 registered under Sections 302, 324, 323, 148 and 149 IPC at Police Station Zira, District Ferozepur, is hereby quashed qua the present petitioner.

10. However, it is made clear that nothing stated hereinabove shall be construed as an expression on the merits of the case.

11. All pending applications, if any, also stand disposed of.

19.05.2026

Anu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(MANDEEP PANNU)
JUDGE