



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

**CRR-2751-2023 (O&M)
Reserved on: 16.04.2026
Pronounced on:28.04.2026**

Bheesham Sharma alias Ankush

...Petitioner

vs.

State of Punjab

...Respondent

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

Present : Mr. Parminder Singh, Advocate
for the petitioner.

Mr.M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present revision petition against the impugned order dated 23.08.2023 passed by the Court of Sessions Judge, Bathinda, whereby, the application filed by the prosecution under Section 319 Cr.P.C. was allowed and the petitioner was ordered to be summoned as an additional accused to face trial alongwith already arrayed accused.

2. Learned counsel for the petitioner contends that Kulwinder Kaur, mother of the complainant namely Yobandeep Singh had got an FIR under Section 376 of IPC registered in the year 2017 against Sukhpal Singh, co-accused. As per him, after 1 ½ months Sukhpal Singh and his companions had abducted him and his mother and a case was got registered in this regard. Thereafter, Sukhpal Singh started threatening them and his mother entered into a compromise with Sukhpal Singh and also performed marriage with him. Sukhpal Singh is his cousin i.e. son of his Bua. On 09.10.2022, Sukhpal Singh, the petitioner and Ashu had allegedly confined his mother and on



10.10.2022, she was taken to the Courts at Bathinda for signing the divorce papers. On 18.11.2022, his mother was again called at the bus stand outside the Courts and he and his mother reached bus stand at about 5.00 pm. Sukhpal Singh came alongwith his two companions and immediately after reaching, Sukhpal Singh took out a revolver and fired directly at his mother. He saved his life by running away from the place of occurrence.

3. After the registration of the FIR, the investigation was conducted and the petitioner was found to be innocent in the present case. However, during the course of trial, the statement of PW-1, Yobandeep Singh (Annexure P-2) was recorded. The prosecution also examined Manpreet Kaur, sister of the deceased as PW2 and thereafter, the application under Section 319 Cr.P.C. was moved. Vide the impugned order dated 23.08.2023, the petitioner and his co-accused, Ashu were ordered to be summoned by the trial Court to face trial alongwith the main accused in the present case.

4. Learned counsel for the petitioner vehemently argued that during the course of trial, Yobandeep Singh (PW-1) and Manpreet Kaur (PW-2) made considerable improvements in their respective testimonies and named the petitioner and Ashu as associates of Sukhpal Singh. Except naming both of them, there was no other connecting evidence in the present case and even their complete particulars were not mentioned by the witness. Still further, when the FIR was registered, the names of the petitioner and Ashu were mentioned regarding the alleged incidents dated 09.10.2022 and 10.10.2022, however, the complainant did not name the petitioner and Ashu as accused, who were responsible for committing the crime on 18.11.2022. However, the complainant named both the petitioner and Ashu as associates of Sukhpal Singh by showing



their presence at the time of alleged occurrence. He further submits that in the initial version, it was stated that Sukhpal Singh had come alongwith his two associates and Sukhpal Singh had fired at his mother, with an intention to kill her. Thus, the petition deserves to be allowed by this Court.

5. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner was named in the FIR from the very beginning and specific role has been assigned to him. Even it was alleged that the mother of the complainant was illegally confined by Sukhpal Singh, petitioner and Ashu on 13.10.2022 and on 14.10.2022, she was taken to Bathinda Court for signing the divorce papers forcibly. Then she ran away from there and sought help from the employees of the custody room. Even in the initial version also, it was alleged by the complainant that on 18.11.2022, Sukhpal Singh had come with two of his associates and immediately after reaching their, Sukhpal Singh fired at his mother with an intention to kill her. Thus, the trial Court had rightly summoned two associates i.e. the petitioner and Ashu to face trial along with the main accused, in the present case.

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

7. In fact, the Hon'ble Supreme Court has held in the matter of **"Hardeep Singh versus State of Punjab and others", 2014(3), SCC 92** that the power under Section 319 Cr.P.C. is a discretionary power and it has to be exercised sparingly and only in those cases, where the circumstances of the case so warrant. It is not to be exercised because the Magistrate or the Sessions Judge is of the opinion that some other person may also be guilty of committing



that offence. Only where strong and cogent evidence occurs against a person from the evidence led before the Court that such power should be exercised and not in a casual and cavalier manner. Even the test has to be applied is one, which is more than *prime facie* case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes un rebutted, would lead to conviction. It requires much stronger evidence than mere probability of his complicity.

8. In the present case also, from a perusal of the FIR, it is apparent that the complainant knew the petitioner as well as Ashu very well and he had named the petitioner and Ashu as the accused in the incident dated 13.10.2022. He had alleged that Sukhpal Singh, petitioner and Ashu had confined his mother in their house and on 14.10.2022, his mother was shifted to Bathinda Court and was forced to sign the papers of divorce. However, she ran away from there and asked for help from the employees of custody room. Then these persons ran away from the spot. On 18.11.2022, Sukhpal Singh called his mother at the bus stand and he and his mother went to the bus stand near Courts at 5.00 p.m. Sukhpal Singh came there with two of his associates and immediately on reaching, Sukhpal Singh fired at his mother to kill her. He, the complainant ran away from the spot. In fact, the complainant was well aware of the names and identity of the petitioner and Ashu. Had the petitioner been present at the spot, the complainant would have definitely named the petitioner as one of the assailants. Even from the FIR, it is apparent that while levelling the allegations regarding incident dated 14.10.2022, the petitioner was specifically named by the complainant, which means that he knew the petitioner very well. However, while mentioning the incident dated 18.11.2022, he stated



that Sukhpal Singh had come with two unknown associates and fired at mother of the complainant.

9. From this, it is apparent that Sukhpal Singh was accompanied by two some unknown persons. Applying the test laid down by the Hon'ble Supreme Court in the matter of *Hardeep Singh's case (Supra)*, this Court has no hesitation to hold that sufficient evidence was not there on the record, which would warrant the summoning of the petitioner under Section 319 Cr.P.C. Even the trial Court had completely overlooked the evidence on record and the impugned order is legally unsustainable.

10. As a consequence, the present revision petition is allowed and the impugned order dated 23.08.2023 passed by the Court of Sessions Judge, Bathinda is ordered to be set aside qua the petitioner only.

11. Pending applications, if any, stand also disposed of, accordingly.

28.04.2026

hemlata

(N.S.SHEKHAWAT)
JUDGE

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