

CHA-8-2022

CNR No. PBSBA1-000511-2022

State vs Parveen Kumar @ Peenu etc.

Present: Ms. Amandeep Kaur, learned APP for the State
Accused Ravinder, Parveen Kumar and Satwinder Singh on
bail represented by Sh. N.K. Arora, Advocate.

This order of mine shall dispose of an application filed by the APP for the State under Section 319 of the Code of Criminal Procedure, 1973 for summoning accused Santokh @ Shokhi s/o Darshan r/o Dayala as additional accused in the present case.

2. It has been stated in the application that present FIR was registered by the police against accused Parveen Kumar and Satwinder. Accused Santokh and Ravinder were nominated on the basis of disclosure statement suffered by accused Parveen and Satwinder and these both persons were nominated vide DDR No. 24 dated 27.10.2017. The accused Parveen and Satwinder had categorically stated that Santokh Singh is also a supplier but challan was presented against accused Parveen Kumar, Satwinder and Ravinder Kumar only and the police has kept Santokh Singh in column no. 2 despite of sufficient evidence against him. Prayer has been made to allow the present application.

3. I have heard the learned APP for the State who argued on the lines of the application filed by her. I have also gone through the record with her able assistance.

4. In the present case, the accused Parveen Kumar @ Peenu, Satwinder Singh @ Laddi and Ravinder Kumar @ Kaka have been

challaned by the police under Section 61 of the Punjab Excise Act, 1914 on the allegations that on 01.10.2021 the accused Parveen Kumar and Satwinder Singh were found in possession of 204 bottles of illicit liquor and this illicit liquor was supplied to them by accused Ravinder Kumar @ Kaka. As per the challan, the accused Santokh Singh was also nominated in the present FIR on the confessional statements of accused Parveen Kumar and Satwinder Singh. But after inquiry by the SSP, SBS Nagar, he was found innocent and thereafter kept in column no. 2 of the challan. Now, by way of the present application, the prayer has been made to summon Santokh @ Shokhi s/o Darshan r/o Dayala as an additional accused in the present case to be tried along with the accused Parveen Kumar @ Peenu, Satwinder Singh @ Laddi and Ravinder Kumar @ Kaka on the assertion of the learned APP that he is also one of the suppliers of illicit liquor.

5. In the present case, PW1 ASI Surinder Pal and PW2 Constable Kulwinder Singh have been examined completely, whereas PW3 Inspector Aseem Hans has been partly examined in chief. He brought on record the confessional statement of accused Parveen Kumar @ Peenu as Ex. PW3/A . On the basis of this confessional statement Ex. PW3/A alone which has been made by the accused Parveen Kumar @ Peenu before the police officer and while being in custody of police, the learned APP seeks to summon Santokh @ Shonki as an additional accused in the present case. It is the contention of the APP that in Ex.PW3/A the accused Parveen Kumar @ Peenu admitted that he and Satwinder Singh

along with Ravinder Kumar @ Kaka had been supplying illicit liquor and the seventeen boxes of the liquor recovered in the present case were brought from Chandigarh by accused Ravinder Kumar @ Kaka in his car and Santokh Singh @ Shokhi also works with them for the supply of illicit liquor.

6. The satisfaction of the court required to summon a person as an additional accused under Section 319 of Cr.PC is some what more than the existence of a prima facie case. On the basis of the evidence available on record and stressed upon by the learned APP for the State and solely on the basis of confessional statement of Parveen Kumar @ Peenu Ex.PW3/A, the satisfaction of the Court required to summon Santokh @ Shokhi s/o Darshan r/o Dayala as an additional accused under Section 319 of Cr.P.C is not fulfilled.

7. It is note worthy that in the pronouncement titled “Hardeep Singh vs State of Punjab (SC) (Constitutional Bench) 2014 (1) RCR (Criminal) 623, the Hon’ble Apex Court held that “we hold that though only a prima facie case is to be established from the evidence led before the Court, not necessarily tested on the anvil of cross -examination, it requires much stronger evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima 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.

In the absence of such satisfaction, the court should refrain from exercising power under Section 319 of Cr.P.C”.

8. Further, in pronouncement titled as Juhru and others vs Karim and another 2023 Live Law (SC) 128, A Bench comprising of Hon’ble Mr. Justice Surya Kant and Hon’ble Mr. Justice J.K. Maheshwari, while deciding a Criminal Appeal challenging the order of the Punjab and Haryana High Court that had allowed an application seeking to summon an additional accused, jotted down the following procedural safeguards to ensure that the provision is not misused:

1. Summoning of a person at the threshold of the trial may be discouraged:
2. Trial Court must evaluate the evidence against the person sought to be summoned;
3. Trial Court must adjudge whether the material carries some weightage and value as has been testified against those who are facing trial;
4. In absence of any credible evidence, the provision is not to be invoked”.

9. Therefore, the evidence that has been brought forth by the prosecution is not such which could satisfy the Court to exercise the power under section 319 of Cr.P.C. to summon Santokh @ Shokhi s/o Darshan r/o Dayala in the present case as an additional accused. Therefore

without commenting anything on the merits of the case, the application stands dismissed.

Date of Order:

14.07.2025

(Shevani)

**(Papneet) PCS
Judicial Magistrate Ist Class
Balachaur/SBS Nagar
UID No.PB-0577**

***(Papneet) PCS
JMJC/Balachaur
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Arguments heard. Vide my separate order of even date, the application filed by the APP under Section 319 of Cr.P.C has been dismissed. Now, the case is adjourned to 23.07.2025 for remaining prosecution evidence. Let, summons to prosecution witnesses mentioned at serial no. 2, 3, 4, 12 and 13 be issued for the date fixed.

Date of Order:**14.07.2025****(Shevani)****(Papneet) PCS****Judicial Magistrate Ist Class****Balachaur/SBS Nagar****UID No.PB-0577**