



2025:DHC:6673



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 23th July, 2025*

+ CRL.M.C. 4354/2023 and CRL.MA. 16424/2023

PINTU SINGH

.....Petitioner

Through: Mr. O.N. Sharma, Mr. Abhay Singh
and Mr. Firoz Gandhi, Advocates.

versus

STATE NCT OF DELHI AND ANR.

.....Respondents

Through: Ms. Priyanka Dalal, APP for the State
with Insp Anand Prakash, PS Sunlight
Colony.

CORAM:
HON'BLE MR. JUSTICE ARUN MONGA

ARUN MONGA, J. (Oral)

1. Quashing of an order dated 30.05.2023 passed by the Learned ASJ-04, Special Judge (NDPS), South-East District, Saket Courts, New Delhi, is sought herein whereby petitioner's application under Sections 233(3) read with 311 Cr.P.C. read with Section 165 of the Indian Evidence Act, 1872, for summoning the Station Master, Hazrat Nizamuddin Railway Station, with official records of arrival timings of trains from Bhubaneswar, was dismissed.



2025:DHC:6673



2. Per FIR No. 214/2013 dated 29.05.2013 registered at Police Station Sunlight Colony under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985, it is alleged that a recovery of 21 kilograms of ganja was made from the possession of the petitioner at Sarai Kale Khan, Delhi, on 29.05.2013. As per the prosecution, a confidential information was received that the petitioner would be carrying ganja, arriving from Bhubaneswar by train, disembarking at Hazrat Nizamuddin Railway Station, and thereafter proceeding to Ghaziabad by bus.
3. Learned counsels for the petitioner submits that the application was essential for ensuring a fair trial, as the prosecution's case is premised on the allegation that the petitioner travelled from Bhubaneswar by train, disembarked at Hazrat Nizamuddin Railway Station, and thereafter proceeded to the bus terminal. He further argues that the official train arrival records would establish that no such train arrived between 05:00 PM and 06:30 PM.
4. Per contra, learned APP for the State submits that the prayer for summoning the Station Master was nothing more than a fishing inquiry. He pointed out that no specific claim regarding any train was made in the prosecution's case, and that the petitioner had already availed himself of the opportunity to lead defense evidence, including examining one witness in support of his alibi. Learned APP further contends that the request for additional summoning was neither justified nor in the interest of the expeditious disposal of the trial.
5. In the aforesaid backdrop, I have heard respective and perused the case file.



2025:DHC:6673



6. The petitioner, during trial, examined one defense witness (DW-1) to support his plea of alibi, claiming he was picked up from his office in Ghaziabad around 11:00 AM on the date of the alleged incident. Subsequently, he moved an application before the Ld. Trial Court for summoning the Station Master to produce records of train arrivals from Bhubaneswar at Hazrat Nizamuddin between 05:00 PM and 06:30 PM on 29.05.2013, asserting that such evidence was vital to disprove the prosecution's narrative.

7. The Ld. Trial Court dismissed the application, observing inter alia that neither the prosecution nor the defense had specified the train name, number, or scheduled arrival time. It was further noted that the petitioner was apprehended not inside the railway station or on board any train, but at the ISBT Sarai Kale Khan. The Court held the application to be speculative, unnecessary at the stage of final arguments, and not essential for a just decision of the case.

8. Upon due consideration and perusal of the record, I am of the view that there is no infirmity in the reasoning of the Ld. Trial Court. I concur with the opinion of the Ld. Trial Court recorded in order dated 30.05.2023, which is premised, *inter alia*, on the following reasons:-

“At this juncture, it would be pertinent to note that the power us/ 311 Cr.PC and 233(3)Cr.PC are to be used sparingly with with circumspection and it is to be allowed only when the examination of the person is essential to just decision of the case. In the present matter, this court concurs with the submission of Ld. Addl PP for State inasmuch as neither the description of the train nor any timing has been mentioned by Ld. Counsel for accused in his application. Further, a



perusal of record would also reveal that the prosecution has nowhere stated or given the description of name or number of the train by which the accused supposedly arrived at New Delhi. It has only been stated that the accused would come by train from Bhubneshwar. Further, a perusal of record would also reveal that it is not the case where the accused was apprehended in the train from Bhubneshwar to Delhi or even at the Nizamuddin Railway station. The factual matrix of the case reveals that the accused changed the mode of commutation from rail to bus and was finally caught from ISBT Sarai Kale Khan.”

9. The powers under Sections 311 and 233(3) Cr.P.C. are discretionary in nature and are not to be exercised mechanically but judiciously. The test for allowing such applications is whether the proposed evidence is “essential to the just decision of the case.” In the present circumstances, this Court is not satisfied that the evidence sought meets that threshold of necessity or relevance. While the right to a fair trial is sacrosanct, it must be balanced against the need to prevent delay and the misuse of procedural mechanisms for frivolous reasons, when no compelling necessity has been established.

10. In the present case, the petitioner has neither specified any train number nor laid any prior factual foundation to justify the summoning of the Station Master. The prosecution has not based its case on any particular train or its timing. The arrest did not occur at the railway station but at ISBT Sarai Kale Khan, and the existence or non-existence of a train at the relevant time is not of such pivotal significance as to render the dismissal of the application a miscarriage of justice.



2025:DHC:6673



11. Furthermore, the petitioner had the opportunity to adduce other evidence in support of his plea of alibi, including call detail records, which were not produced. Having already examined one defense witness, the belated attempt to summon a railway official on the basis of vague and non-specific allegations appears to be a dilatory tactic.

12. I am unable to persuade myself with the argument that the witness sought to be summoned, who is stated to possess information regarding trains operating between Bhubaneswar and Hazrat Nizamuddin, has any substantial relevance to the prosecution's version of the petitioner having been arrested from Sarai Kale Khan at 6:30 PM on 29.05.2013.

13. Merely because a train ticket from Bhubaneswar to Hazrat Nizamuddin, dated a day prior to the arrest, was recovered from the pocket of the accused, it cannot, in any case, be taken as an indicator of the petitioner's location at the time of arrest or as having any bearing on whether he undertook the journey on 28th May, prior thereto, or on 29th May itself.

14. In view of the aforesaid, there is no ground to interfere with the impugned order dated 30.05.2023.

15. In the parting, I may hasten to add that the over emphasis of the learned counsel for the petitioner on Section 223(3) Cr.P.C. is wholly misplaced. The Ld. Trial Court did not dismiss the application merely on the ground of delay, rather, it rightly observed that the witness sought to be summoned under Section 311 Cr.P.C. had no relevance to the matter.



2025:DHC:6673



Therefore, the contention of learned counsels for the petitioner that the Ld. Trial Court committed any irregularity is entirely unfounded.

16. Accordingly, the petition is dismissed.

ARUN MONGA, J

JULY 23, 2025

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