

ANIL V/S STATE OF HARYANA

Present: Mr. V.D.Sharma, Advocate
for the petitioner.

Mr. Parveen Aggarwal, DAG, Haryana.

Learned counsel for the petitioner submits that all the prosecution witnesses have now been examined.

In view of the above, this Court does not deem it appropriate to interfere in the matter to grant bail to the petitioner, at this stage. Accordingly, the present petition is dismissed qua the claim of the petitioner.

However, the order sheet shows that vide order dated 07.02.2019, the prosecution was directed to examine all its witnesses within three weeks. Still further, in view of the fact that the petitioner had already been in custody for about two years and the evidence was not being completed, it was further directed that in case, all the witnesses were not produced before the trial Court within the above said period, then the non-bailable warrants shall be issued against the remaining witnesses and the said witnesses shall be taken into custody and shall be kept in custody till their examination and cross-examination is completed. On the next date, i.e. 12.03.2019, learned counsel for the petitioner had informed the Court that all the witnesses were not examined by the prosecution within the specified time, rather, the prosecution had first got its evidence closed and immediately thereafter moved an application under Section 311 Cr.P.C. for recalling of the remaining witnesses, who otherwise would have been arrested as per the directions issued by this Court, vide order dated 07.02.2019. Therefore, the case was adjourned to verify the fact regarding

moving of the application under Section 311 Cr.P.C.

Today, the learned State counsel has not disputed the fact that after the direction was issued by this Court to arrest the non-appearing witnesses, the evidence was got closed by the prosecution and immediately, thereafter, an application under Section 311 Cr.P.C was moved for producing the remaining witnesses.

In view of this, it prima facie appears to be an abject modality of overreaching the directions issued by this Court. Hence, besides the contempt proceedings the conduct of the prosecution/its official can invite adverse consequences. As an answer to the query from the Bench, the learned State counsel has submitted that the decision of getting closure of the evidence and to move an application for recalling all the remaining witnesses immediately thereafter, was taken by the Public Prosecutor on his own.

In view of the above, it is directed that the Public Prosecutor, who had moved the application under Section 311 Cr.P.C., as well as the Investigating Officer of the case, who was representing the case at the time of closure of the evidence, both shall remain personally present in the Court, on the next date of hearing.

Adjourned to 08.08.2019.

(RAJBIR SEHRAWAT)
JUDGE

07.05.2019
Hemlata