

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

**Neutral Citation No. 2024:PHHC:047423
CRM-M-16666-2024
Date of Decision: April 08, 2024**

Benjiman Masih @ Binni @ Rahul Masih ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sandeep Arora, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

By way of this petition under Section 482 Cr.P.C., petitioner prays to quash/set aside the order dated 27.02.2024 (Annexure P-7) passed by learned Addl. Sessions Judge, Jalandhar, in Sessions case No.5 of 2018, titled as *“State of Pujab v. Inderjit Singh alias Sunny alias Bhindi etc.”* arising out of FIR No.121 dated 25.05.2016, under Sections 308, 323, 325, 452, 364 and 120-B of IPC, registered at Police Station Rama Mandi, District Jalandhar, whereby presence of two prosecution witnesses were directed to be procured by issuingailable warrants.

2. Learned counsel for the petitioner contends that the Court had initially closed the prosecution evidence vide order dated 08.11.2023 and the matter was adjourned for recording the statement of the accused under Section 313 Cr.P.C., as per Annexure P-2. However, on an application under Section 311 Cr.P.C. (Annexure P-3) moved by the prosecution, one opportunity was granted to the prosecution to summon and examine its witnesses, as per order dated 08.12.2023 (Annexure P-5). Learned counsel submits that despite the said clear order granting only one opportunity, the prosecution availed opportunity on 02.01.2024, on which date, it recorded

statement of one witness; and part statements of two witnesses, whose cross-examination were deferred for 27.02.2024. Thereafter on 27.02.2204, the two bound down witnesses ASI Narain Gaur and Inspector (Retd.) Rakesh Kumar did not appear and the Court directed to issueailable warrants against them. Learned counsel contends that once, the Court had ordered to grant only one opportunity, it was not justified to again adjourn the matter for prosecution evidence.

3. After hearing learned counsel for the petitioner, this Court does not find any illegality in the impugned order. Once the witnesses had been duly served and they had even appeared before the Court with their part examination recorded and they had been bound down for concluding their evidence, it was the bounden duty of the Court to procure their presence by coercive methods. No illegality can be found in the impugned order.

Dismissed.

April 08, 2024
sarita

(DEEPAK GUPTA)
JUDGE

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