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

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Date of decision : 22.05.2025

Sarabjit @ Sabba

..... Petitioner

V/S

State of Punjab and Anr.

..... Respondents

**CORAM : HON'BLE MS. JUSTICE AMARJOT BHATTI**

Present: Mr. Vikas Bali, Advocate for petitioner.

Mr. Japjot Singh, AAG, Punjab.

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**AMARJOT BHATTI J. (ORAL)**

1. Petitioner – Sarabjit @ Sabba through his guardian/next friend Santokh Singh filed this petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of FIR No.125 dated 28.05.2017 (Annexure P-1), under Sections 323, 354-B, 506, 146, 149 of IPC and Section 8 of POCSO, Act, registered at Police Station Sadar Jalandhar, District Police Commissionerate Jalandhar along with all subsequent proceedings including Challan/Report under Section 173 Cr.P.C. (Annexure P-3), chargesheet dated 01.11.2019 (Annexure P-4) and order dated 05.03.2025 (Annexure P-22) whereby application filed by prosecution under Section 216 Cr.P.C. has been allowed and offences under Section 354-B of IPC and Section 8 of POCSO Act have been added and reference has been made to the court of learned Sessions Judge, Jalandhar for transfer of the case to the competent court of jurisdiction.
2. During the course of arguments, learned counsel representing petitioner raised the point that present petitioner is a person of unsound mind and regarding this fact application under Section 367 read with Section 368 of BNSS,



2023 was filed before learned Additional Chief Judicial Magistrate, Jalandhar (Annexure P-18). The said application was totally ignored and learned Additional Chief Judicial Magistrate, Jalandhar while disposing of application under Section 216 Cr.P.C./Section 239 BNSS (Annexure P-20) concluded that offences under Section 354-B of IPC and Section 8 of POCSO Act were made out which are tried by the Special Court. Copy of detailed order dated 05.03.2025 is Annexure P-22. Accordingly, the aforesaid trial was withdrawn from the court of learned Additional Chief Judicial Magistrate, Jalandhar and was transferred to learned Additional Sessions Judge, Jalandhar vide order dated 17.03.2025 (Annexure P-23). At present the case is pending before learned Additional Sessions Judge-VI-cum-Fast Track Court (POCSO) Jalandhar. It is submitted that learned trial Court may be directed to dispose of the application filed by the petitioner under Section 367 read with Section 368 of BNSS, 2023 (Annexure P-18). Apart from this, no other relief is claimed for.

3. On advance notice, Mr. Japjot Singh, AAG, Punjab appears and accepts notice on behalf of State. Aforesaid factual position is not disputed by learned counsel representing State.

4. I have considered the arguments advanced by learned counsel for petitioner. It is argued that accused Sarabjit @ Sabba- petitioner is a person of unsound mind. Therefore, he may be discharged under the provisions of Section 367 read with Section 368 of BNSS, 2023. It is a fact that aforesaid application (Annexure P-18) was filed before learned Additional Chief Judicial Magistrate, Jalandhar on 03.12.2024 which is duly reflected in the zimni order Annexure P-19. Another application under Section 216 Cr.P.C./239 BNSS, 2023 for amendment of charge was filed which was disposed of vide order dated



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05.03.2025 (Annexure P-22) and finally the case was withdrawn from the said court and at present it is pending before learned Additional Sessions Judge-VI-Cum-Fast Track Court (POCSO), Jalandhar. Before starting of trial, it is mandatory for the learned trial Court to dispose of the application filed under Section 367 read with Section 368 of BNSS, 2023 (Annexure P-18). Therefore, present petition filed by petitioner is allowed to the extent of giving direction to the learned trial Court to dispose of the aforesaid application as per law.

5. With this direction, present petition is disposed of.

6. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

**(AMARJOT BHATTI)**  
**JUDGE**

**22.05.2025.**

*Sunil Devi*

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|----------------------------|--------|
| Whether speaking/reasoned: | Yes/No |
| Whether Reportable:        | Yes/No |