



CRM-M-27488-2025

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

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CRM-M-27488-2025

Date of decision : 20.05.2025

Narinder Singh Birdi @ Sonu

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present: Mr. Sandeep Chopra, Advocate
for the petitioner.

Mr. Japjot Singh, AAG, Punjab.

AMARJOT BHATTI J. (ORAL)

1. Petitioner – Narinder Singh Birdi @ Sonu has filed petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer to set aside order dated 19.04.2025 (Annexure P-1) passed by the Court of learned Additional Sessions Judge, Fast Track Special Court, Ludhiana in Sessions Case No. SC/465/2023, titled “State Vs. Narender Singh and Others” pertaining to FIR No. 255 dated 03.10.2022 under Section 343, 365, 389, 406, 466, 471, 506 of IPC (Section 376 IPC added lateron) registered at Police Station Division No. 6, District Police Commissionerate, Ludhiana (Annexure P-4).

2. Learned counsel for petitioner pointed out that petitioner Narinder Singh Birdi @ Sonu is facing trial in aforesaid FIR. Trial in this case was at fag end when prosecution filed application under Section 311 Cr.P.C. (Annexure P-2) for summoning of Ms. Jyoti Yadav, the then Assistant Commissioner of Police, Industrial Area-B, Ludhiana and Constable Rohit Kumar, No. 3855 as



prosecution witnesses. Said application was contested by petitioner by filing reply (Annexure P-3). Without considering the factual position, said application has been allowed vide impugned order dated 19.04.2025 (Annexure P-1).

It is pointed out that testimony of aforesaid witnesses is not material for disposal of case especially when they were not cited as witnesses at the initial stage. This application has been filed only to fill up the lacunas in the case. By allowing application under Section 311 Cr.P.C., case of the petitioner has been adversely effected. However, it is conceded that during the pendency of trial at present statement of Constable Rohit Kumar has already been recorded. Therefore, present petition is only pertaining to the testimony of Ms. Jyoti Yadav, the then Assistant Commissioner of Police. It is submitted that impugned order dated 19.04.2025 (Annexure P-1) is not justified, therefore, same may kindly be set aside.

3. On advance notice, Mr. Japjot Singh, AAG, Punjab appeared on behalf of respondent-State. Learned State counsel pointed out that testimony of Ms. Jyoti Yadav, the then Assistant Commissioner of Police as well as statement of Constable Rohit Kumar was material as they were required to prove investigation report prepared by said witnesses. Inadvertently, said witnesses could not be cited in the list of witnesses, as a result, application was filed under Section 311 Cr.P.C. It is pointed out that facts of case were rightly considered and application was rightly allowed vide impugned order dated 19.04.2025 (Annexure P-1).

4. I have considered the arguments and have gone through the record. By filing this petition, petitioner has challenged order dated 19.04.2025 (Annexure P-1) vide which Ms. Jyoti Yadav, the then Assistant Commissioner of Police, Industrial Area-B, Ludhiana and Constable Rohit Kumar, No. 3855



were summoned by filing application under Section 311 Cr.P.C. Provisions of Section 311 Cr.P.C. runs as under:-

“Section 311: Power to summon material witness, or examine person present. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.”

Therefore, at any stage, the court has power to summon any witness at any stage of inquiry, trial or other proceedings.

Perusal of contents of petition indicate that all material prosecution witnesses were already examined when present application under Section 311 Cr.P.C. (Annexure P-2) was filed. As per contents of application under Section 311 Cr.P.C., prosecution wanted to examine Ms. Jyoti Yadav, the then Assistant Commissioner of Police, who had prepared investigation report as well as Constable Rohit Kumar, who was part of investigation. Admittedly, these witnesses were not cited in the list of witnesses (Annexure P-5), as a result, prosecution had to file present application under Section 311 Cr.P.C. Careful perusal of impugned order further indicates that inquiry report required to be proved by Ms. Jyoti Yadav, the then Assistant Commissioner of Police is already part of challan report. It is evident that inadvertently Ms. Jyoti Yadav, the then Assistant Commissioner of Police and Constable Rohit Kumar could not be arrayed as witnesses while preparation of challan. At present, testimony of Constable Rohit Kumar is already recorded who was also cross-examined by counsel for accused (present petitioner). So far as Ms. Jyoti Yadav, the then



Assistant Commissioner of Police is concerned, her testimony is necessary to prove the investigation report prepared by her. Petitioner will not suffer any prejudice as he will get full opportunity to cross-examine the said witness.

5. In the light of this, I do not find any illegality or irregularity committed by learned Additional Sessions Judge, Fast Track Special Court, Ludhiana, by allowing application under Section 311 Cr.P.C. vide impugned order dated 19.04.2025 and same is accordingly upheld. Consequently, present petition filed by petitioner Narinder Singh Birdi @ Sonu is, accordingly, dismissed.

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

(AMARJOT BHATTI)
JUDGE

20.05.2025

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