



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

CRM-M-35874-2025 (O&M)

Date of Decision: 10.07.2025

GOBIND SINGH

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Himani Anand, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Present petition has been filed under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 (hereinafter to be referred as 'BNSS') seeking setting aside of the order dated 25.03.2025 (Annexure P-1) passed by learned Civil Judge (Junior Division)/Judicial Magistrate Ist Class, Karnal vide which the witnesses namely Shakuntala Devi and Indu have been summoned on an application filed under Section 348 of BNSS moved by the prosecution.

2. Brief facts of the case are that FIR No. 75 dated 31.01.2012 was registered under Sections 406 and 420 of Indian Penal Code at Police Station Karnal Civil Lines, District Karnal against the petitioner for allegedly indulging in short supply of 113.87 quintals of wheat and 10.52 quintals of rice to the Anganwadi Centres being the Transport Contractor of the office of CONFED Karnal at the relevant time. The petitioner was granted anticipatory bail by learned Additional Sessions Judge, Karnal vide order dated 24.03.2012.

3. Learned counsel for the petitioner *inter alia* contends that the FIR(supra) was registered on 31.01.2012 and on 19.04.2013, the final report under Section 173 Cr.P.C. was presented before the jurisdictional Court and

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the learned trial Court framed the charges in the year 2015. On 15.09.2022, the prosecution evidence was closed by Court order as ample opportunities were provided to prosecution for providing correct address of witnesses Shakuntla Devi and Indu. Further, on 17.09.2022, the statement of petitioner under Section 313 Cr.P.C. was recorded. The matter was listed for final arguments on 19.03.2022 and instead of addressing arguments, the prosecution moved an application under Section 348 of BNSS, for summoning the witnesses Shakuntla Devi and Indu, without assigning any reason, as to how the evidence of these witnesses is essential for the just decision of the case. Further, such an application is not sustainable as the prosecution evidence was already closed way back on 15.09.2022 by passing a well reasoned order (Annexure P-2). The said order is reproduced hereinbelow:

“Today the case was fixed for furnishing correct/latest address of PW Indu wife of Ramesh Kumar. Adjournment requested by learned public prosecutor stating that one more opportunity may be given. Perusal of judicial file reflects that on 07.03.2022 the summon to PW Indu was received back with report that no such person resides/was found at the given address, thereafter the prosecution was directed to furnish correct/latest address of PW Indu. Since then despite availing several opportunities, including last opportunity, the correct/latest address has not been filed. In such circumstances this Court finds no ground to adjourn the case any further for the said purpose and consequently the evidence of prosecution is hereby closed. Now to come upon 17.09.2022 for examination of accused under Section 313 Cr.P.C.”

4. Learned counsel further contends that impugned order was allowed on the same date without issuing any notice to the petitioner or without providing any opportunity of hearing to him, in a most cryptic manner and no discussions satisfying the objective standards of reasons and justice have been



given. The application filed by the prosecution under Section 348 of BNSS was decided by passing a three line order. The same is reproduced hereinbelow:

“Case was fixed for arguments, however, application moved by learned APP for the State under Section 348 of BNSS. Witnesses Shakutala Devi and Indu be summoned for 18.04.2025 to conclude their evidence.”

5. Notice of motion.

6. Ms. Geeta Sharma, DAG Haryana, who is present in the Court, accepts notice on behalf of respondent-State of Haryana and could not controvert the factual position as the impugned order was passed against the principles of natural justice because neither any notice was issued to the accused-petitioner, nor any opportunity of hearing or filing reply was granted to him.

7. Having heard learned counsel for the parties and after perusal of the record, this Court finds merit in the arguments advanced by learned counsel for the petitioner as such an omission of reasons reflects non-application of judicial mind and renders the order unsustainable.

8. The entire edifice of exercise of judicial or quasi-judicial power rests on the foundation of giving reasoned and detailed orders. It is a fundamental principle of natural justice and ensures that there is proper and due application of mind while exercising said power. Therefore, the practice of arbitrarily denying permission for issuance must be discouraged. It is expedient that the competent Court does not act in a ritualistic fashion and ensures that application of mind is discernable. A two Judge bench of the



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Hon'ble Supreme Court in *Y vs. State of Rajasthan (2022) 9 SCC 269*, speaking through Justice N.V. Ramana, observed as follows:

“Reasoning is the life blood of the judicial system. That every order must be reasoned is one of the fundamental tenets of our system. An unreasoned order suffers the vice of arbitrariness.”

9. A two Judge bench of the Hon'ble Supreme Court has clearly laid down in *State of Orissa vs. Dhani Ram 2004(5) SCC 568* that assigning reasons in an order is in the interest of justice and the accused is also entitled to know the reasons on which the decision of the Court has gone against him. This is a minimum requirement of natural justice and reasons are the heart beat of the judicial process. Speaking through Justice Arijit Pasayat, the following was held:

"7. Reason is the heartbeat of every conclusion, and without the same it becomes lifeless. (See Raj Kishore Jha v. State of Bihar and Ors. (2003 (7) Supreme 152).

8. Even in respect of administrative orders Lord Denning M.R. in Breen v. Amalgamated Engineering Union (1971 (1) All E.R. 1148) observed "The giving of reasons is one of the fundamentals of good administration". In Alexander Machinery (Dudley) Ltd. v. Crabtree (1974 ICR 120)(NIRC)it was observed: "Failure to give reasons amounts to denial of justice". Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at". Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made; in other words, a speaking out. The "inscrutable face of a sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance.”

10. Without commenting anything further on the controversy, the impugned order dated 25.03.2025 (Annexure P-1) passed by learned CJ(JD)/JMIC, Karnal is set aside and the matter is remanded back to the

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jurisdictional Court to decide the application under Section 348 BNSS, filed by the prosecution, afresh in the light of the judgments of the Hon'ble Supreme Court in *Y vs. State of Rajasthan (supra)* and *State of Orissa (supra)*, after affording an opportunity of hearing to the petitioner.

The present petition is disposed of in aforesaid terms.

(HARPREET SINGH BRAR)
JUDGE

10.07.2025
Ajay Goswami

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>