



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-59496 of 2025

Reserved On: 02.12.2025
Pronounced On: 15.12.2025

State of Punjab

... Petitioner(s)

Versus

Gurmeet Singh Gill alias Gurmeet Singh Bukkanwala

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Deepender Singh, Additional Advocate General,
Punjab, with Mr. Rohit Bansal, Senior Deputy Advocate
General, Punjab, for the respondent.

Surya Partap Singh, J.

1. This petition seeking for the exercise of extraordinary jurisdiction, vested in this Court by virtue of Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter being referred to as “BNSS” only, has been filed for expunging the remarks recorded by the learned trial Court in its order dated 29.07.2025.

2. Succinctly, the facts emerging from the record are that for the commission of offence punishable under Sections 307, 353, 186, 332, 333, 506(ii), 120-B, 427, 148, 149 and 201 of the Indian Penal Code, 1860, hereinafter being referred to as “IPC” only and Sections 25 & 27 of the Arms Act, the FIR No. 39 dated 24.02.2023 has been lodged in Police Station Ajnala, District Amritsar, Punjab. As a follow up of filing of above mentioned FIR, the investigation was taken up. According to prosecution, on

of Criminal Procedure, 1973, hereinafter being referred to as “Cr.P.C.” only has been filed in the Court, which has led to commencement of trial, i.e. Sessions Case No. 229 of 2024 titled as “State v. Gurpal”

3. By virtue of present petition, the petitioner State has come forward with a plea that during the course of above mentioned trial, the respondent had moved an application under Section 227 Cr.P.C. seeking his discharge on certain grounds, and that the above mentioned application has been disposed of vide order dated 29.07.2025, hereafter being referred to as “impugned order”. It has been alleged by the petitioner that while disposing of the above mentioned application, vide impugned order, the following observations have been recorded:-

“In reply, learned Special Public Prosecutor submitted that present applicant along with his co-accused Basant Singh were members of conspiracy under which the crime in question was committed. The applicant and his co-accused Basant Singh one day prior to the date of occurrence visited Ajnala and after taking note of all the relevant facts such as routes, location of buildings, deployment of force etc., planned the occurrence. On the date of occurrence, Basant Singh remained present on the spot. In that regard, investigating agency has collected tower location of present applicant as well as Basant Singh and also recorded statement of concerned Incharge Malkhana MHC Subegh Singh, who had seen the applicant keeping a watch at the police station. Though on the day of occurrence, the applicant was not physically present at the place of occurrence

but he posted messages on social media inciting public to join the mob. The investigating agency has collected all said relevant evidence and same is also part of the police report.

Having heard rival submissions of learned Counsel for the applicant/accused and learned Special Public Prosecutor, this Court is of the considered opinion that the material on record is sufficient to presume that even the applicant had participated in the alleged crime by joining the conspiracy hatched for commission of the same. Mere absence of the applicant from the place of occurrence is not sufficient to discharge him especially when investigating agency is having sufficient material with regard to applicant being member of the conspiracy and posting of message on social media with an intention of inciting general public to join the mob. Accordingly, the application in hand stand dismissed.

At this stage, this Court is not expected to minutely appreciate the entire evidence/material collected by investigating agency and to give comments on the same. It is settled principle of law that at the stage of framing of charge, the Court is only expected to form an opinion that there is ground for presuming that the accused have committed said offence on the basis of material collected by the investigating agency. Though the witnesses already examined by prosecution have not specifically identified each and every accused and also failed in disclosing the role played by each and every of them

but said fact is not sufficient to form any such opinion favourable to the accused especially when the investigating agency has collected ample fresh evidence with regard to identity of each and every accused and their presence at the spot.

Accordingly, charge is ordered to be framed against the accused under Sections 307, 353, 186, 332, 333, 506 (Second Part), 120-B, 427, 148, 149, 201 of Indian Penal Code & 25 of Arms Act. Prosecution is directed to ensure physical appearance of the accused on the next date of hearing ie.31.07.2025 for the purpose of recording plea of accused.”

4. The petitioner/State is particularly aggrieved of the part of the impugned order wherein it has been observed that as per stand of the prosecution the respondent was not present on the spot at the time of occurrence. It has been alleged by the petitioner that a detailed reply to the application, moved by the respondent under Section 227 Cr.P.C., was filed by the State, and that in the above mentioned reply it was nowhere mentioned that the petitioner, at the time of incident, was not present on the spot. It is the claim of the petitioner that the above mentioned observations have been wrongly recorded by the learned trial Court. According to petitioner/State, although the plea taken by the respondent seeking for discharge has been rejected by the learned trial Court and charge against the respondent has been framed yet the respondent is mischievously taking advantage of the above mentioned observations, by highlighting the above mentioned fact before this Court, and that he has been trying to mislead the

Court and procure the order dated 29.07.2025 in his favor, whereby the trial qua respondent has been stayed.

5. Heard.

6. It has been contended by the learned State counsel that although the outcome of impugned order is in favour of the petitioner, yet the above mentioned observation recorded by the learned trial Court is being misused by the respondent, who by referring the above mentioned observations, is trying to project that he is being prosecuted and subjected to trial despite the fact that the observations of the learned trial Court is that he was not present on the spot.

7. According to learned State counsel, since there are very specific allegations, in the supplementary challan filed against the respondent, that the respondent was present on the spot at the time of occurrence, there was no occasion for the learned trial Court to record the observation that the respondent was not present on the spot at the time of occurrence. As per learned State counsel, in fact neither the above mentioned recital finds mentioned in the reply, to the application under Section 227 Cr.P.C. filed by the petitioner before the learned trial Court, nor it was the stand of the Public Prosecutor before the learned trial Court. According to learned State counsel, in fact even with the final report under Section 173 Cr.P.C. qua respondent, there are statements of two eye witnesses, recorded under Section 161 Cr.P.C., are annexed and that the above said witnesses have categorically deposed that the petitioner was present on the spot at the time of occurrence.

8. While claiming that the above mentioned contents of the

observations recorded by the learned trial Court is being misused by the respondent, the learned State counsel has requested for expunging the above mentioned remarks.

9. The record has been perused carefully.

10. In the present case, at the very outset, it is pertinent to mention here that by virtue of present petition, the State is seeking exercise of extraordinary jurisdiction with regard to observations recorded by the learned trial Court while dealing with the application under Section 227 Cr.P.C. However, this fact cannot be ignored that the above mentioned observations have not resulted into a finding adverse to the interest of the petitioner/State. The application under Section 227 Cr.P.C. was moved by the respondent for discharge and the final outcome of the impugned order is that the above mentioned application stands dismissed. The above mentioned fact shows that the observations challenged by virtue of present petition are having no adverse impact on the rights/interest of petitioner/State. In these circumstances, any cause for expunging the above mentioned observations is not made out.

11. Be that as it may, it is also relevant to mention here that by virtue of above said order, the application moved by the respondent under Section 227 Cr.P.C. was dismissed and therefore, the above said order has been challenged by the respondent by virtue of Criminal Revision Petition No. 2006 of 2025. While passing order in the above mentioned revision petition, it has already been observed by this Court that there is *prima facie* evidence to show that the respondent/accused was present on the spot at the time of occurrence. Thus, any observation by the learned trial Court with

regard to absence of respondent/accused on the spot at the time of occurrence, merges with the findings recorded by this Court in the order passed in Criminal Revision No. 2006 of 2025. Therefore, it is hereby held that the above mentioned finding has become redundant in view of the fact that the above mentioned finding merges with the observations made by this Court in the order passed in Criminal Revision No. 2006 of 2025.

12. Thus, it is hereby held that neither any prejudice by virtue of impugned order has been caused to the petitioner nor there is any necessity to expunge the same, in view of observations made in Criminal Revision No. 2006 of 2025.

13. In view of above, it is hereby held that the present petition is not sustainable in the given fact situation and deserves dismissal. Hence, the present petition is hereby dismissed, accordingly.

(Surya Partap Singh)
Judge

December 15, 2025
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No