

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

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2026.PHHC.078173



**CRM-M-27739-2026 (O&M)
Date of decision: 18.05.2026**

Daljit Singh @ Daljit Singh Sond**...Petitioner****Versus****State of Punjab and others****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Sunny K. Singla, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for setting aside the order dated 23.04.2026 (Annexure P-1), passed by the Court of learned Chief Judicial Magistrate, Malerkotla in case arising out of FIR No.28 dated 25.06.2024, registered under Sections 420, 465, 467, 468, 471 and 120-B IPC at Police Station City Ahmedgarh, District Malerkotla, whereby the application filed by respondent No.2-Amit Kumar seeking separation of trial from co-accused Kulwinder Singh and Gurjant Singh was allowed and the supplementary challan qua the said co-accused was ordered to be separated from the main challan.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered at the instance of the

present petitioner, who is engaged in the business of sale and purchase of air tickets under the name and style of “Global Travels”, alleging that accused Amit Kumar and Harpreet Singh, in connivance with each other, induced the petitioner to purchase air tickets from them through their travel concern namely “Worldwide Travel and Tourism”. It was alleged that during the course of business transactions, the petitioner purchased approximately 120-125 air tickets worth about Rs.1.17 crores from the accused persons and deposited the corresponding amounts in the bank accounts furnished by them. However, several tickets were found to be fake, cancelled, void or never delivered, resulting in huge financial loss to the petitioner, who had to arrange fresh tickets for his customers at higher rates and refund amounts from his own pocket. The petitioner alleged that the accused persons acted in furtherance of a well-planned conspiracy and cheated him to the tune of approximately Rs.60 lakhs.

3. After registration of the FIR, investigation proceedings were initiated. After completion of investigation, the police initially presented challan against respondent No.2-Amit Kumar on 22.11.2024 and thereafter a supplementary challan against co-accused Kulwinder Singh and Gurjant Singh was presented on 17.12.2025. Respondent No.2 thereafter moved an application before the learned trial Court seeking separation of the supplementary challan from the main challan on the ground that trial qua him was at the fag end and clubbing the supplementary challan would amount to a de novo trial. The said application was allowed by the learned trial Court by passing the impugned order dated 23.04.2026, which reads as under:

“Accused Amit Kumar produced by the jail

authorities. It has come into my notice that vide order 09.03.2026 of The Hon'ble Supreme Court of India directed that no coercive action shall be taken against the petitioner Sunit Kumar in pursuant of FIR no.28 dated 25.06.2024(present FIR) provided he joins the investigation and cooperate with the Investigating Officer. Whereas in the zimni order dated 18.03.2026 this fact has been mentioned qua accused Amit Kumar instead of Sunit Kumar. The mistake is clerical one and is rectified to that effect. Reader is directed to give mark against the said order regarding rectification.

I have heard learned counsel for applicant-accused Amit Verma and Id. APP for the State on the application moved by accusedapplicant Amit Kumar for separation of supplementary challan, attached with the main challan of accused Amit Kumar. It is averred in the application that accused Amit Kumar is in custody since 30.09.2024 and report under section 173 Cr.P.C. was prepared against him and presented in the Court on 27.11.2024. Charge against accused Amit Kumar was also framed on 14.02.2025 and since then prosecution took approximately 45 opportunities but failed to conclude their evidence. The trial is at its fag end but attachment of supplementary challan with main challan would amount to de-novo trial of the accused Amit Kumar which is against the provisions of Cr.P.C. and principal of natural justice. The investigating agency presented supplementary challan on 10.03.2026 and this Court attached the same with the main challan. The attachment of supplementary challan with the main challan has caused great prejudice to the accused as it would result in delay in the trial of main challan. It is prayed that supplementary challan attached with the main challan may kindly be ordered to be separated in the interest of justice

and fair play.

Perusal of file shows that main challan/report under Section 173 Cr.P.C. against accused Amit Kumar was presented in the Court on 27.11.2024. Charge against accused Amit Kumar was framed on 14.02.2025 and 11 witnesses have been examined by the prosecution. Supplementary challan against accused Kulwinder Singh and Gurjant Singh was presented in the Court on 10.03.2026 which is attached with main challan and notice to accused Kulwinder Singh and Gurjant Singh are being issued. Learned counsel for applicant-accused Amit Kumar argued that the main challan is at its fag end but attachment of supplementary challan with main challan would amount to de-novo trial of the accused Amit Kumar. Reliance is being placed upon case law titled as *Sanjay and another Vs. State of Haryana and others, CRM-M-24716 of 2019 (O&M), CRM-M-37560 of 2020 (O&M). D/d. 24.11.2020 (Punjab and Haryana High Court)* whereby it is held that when trial against five accused persons is virtually at its fag end, it will not be fair to force them to undergo a de novo trial, just because another co-accused arrested subsequently and supplementary challan filed. Trial Court directed to proceed with two separate trials. In the present case also, trial of accused Amit Kumar is virtually at its fag end but supplementary challan of coaccused was filed on 10.03.2026 which is attached with main challan and it would amount to de-novo trial of the accused Amit Kumar. Hence, it is appropriate that supplementary challan be proceeded separately. In view of above discussion, application is allowed. Ahlmad is directed to separate supplementary challan from the main challan and register it separately, in which notice to accused Kulwinder Singh and Gurjant Singh be issued for 28.04.2026.

Notice to complainant be issue for the date fixed. In the present challan, PWs be summoned for the date fixed. Also, a set of summons of witnesses be handed over to Id. APP to get ensure the service of witnesses. It is made clear that only one opportunity is granted to prosecution to conclude its evidence. Accused Amit Kumar be also produced on the date fixed. Copy of this order be annexed with supplementary challan.”

4. Aggrieved from the impugned order, the petitioner/complainant has filed the present petition.

5. It is argued by learned counsel for the petitioner that the impugned order is not sustainable in the eyes of law as while passing the same, the learned trial Court did not properly appreciate factual and legal position of the case. It is further argued that the impugned order has been obtained by respondent No.2 by misleading the Court and suppressing material facts, particularly the subsequent order dated 24.04.2026 passed by the Hon’ble Supreme Court, whereby bail was granted to him and no direction restricting examination to only five prosecution witnesses had been issued. Respondent No.2 deliberately relied upon earlier observations made before the Hon’ble Supreme Court to create an impression that only five prosecution witnesses remained to be examined and that the trial was likely to conclude within two days. It is further argued that the learned trial Court failed to appreciate that the case was still at the stage of prosecution evidence and separation of trial at such stage would seriously prejudice the prosecution and may result in conflicting judgments on identical facts and evidence. The allegations against all accused persons arise out of the same transaction and are founded upon common evidence and, therefore, joint trial was not only permissible but desirable in law. It is also

argued that the impugned order is contrary to the settled principles governing joint trial under Section 223(d) of Cr.P.C. which specifically contemplate joint trial of persons accused of offences committed in the course of the same transaction. It is, thus, argued that the impugned order dated 23.04.2026 passed by the learned Chief Judicial Magistrate, Malerkotla deserves to be set aside and the petition deserves to be allowed.

6. This Court has heard the submissions advanced by learned counsel for the petitioner.

7. The core grievance raised by the petitioner is that since the allegations against all the accused persons arise out of the same transaction and are founded upon common evidence, the learned trial Court ought not to have separated the supplementary challan from the main challan and should have proceeded with a joint trial. However, this Court does not find any merit in the aforesaid contention. A perusal of the record would show that the challan against respondent No.2-Amit Kumar was presented before the trial Court on 27.11.2024 and charges against him were framed on 14.02.2025. Thereafter, the prosecution led substantial evidence and as many as 11 prosecution witnesses stood examined. It is only subsequently that the supplementary challan against co-accused Kulwinder Singh and Gurjant Singh came to be presented on 10.03.2026. Thus, by the time the supplementary challan was filed, the trial qua respondent No.2 had substantially progressed. The inevitable consequence of tagging the supplementary challan with the main challan at such an advanced stage would have been reopening of the proceedings and virtually compelling respondent No.2 to undergo a *de novo* trial. The learned trial Court, while passing the impugned order, has rightly taken into

consideration the stage of the proceedings as well as the prejudice likely to be caused on account of avoidable delay in conclusion of the trial.

8. Though Section 223 of Cr.P.C. (*which corresponds to Section 243 of BNSS*) contemplates joint trial of persons accused of offences committed in the course of same transaction, the said provision is merely enabling in nature and cannot be construed to mean that in every case joint trial is mandatory irrespective of the attending facts and circumstances. The criminal Court retains ample discretion to order separate trial where the facts of the case so justify. In this regard, reference may be made to the judgment of this Court in ***Kuldeep and others v. State of Haryana, CRM-M-16186 of 2014 decided on 16.05.2014***, wherein this Court upheld the order splitting the trial at an advanced stage of proceedings and observed that there clearly vests discretion with the trial Court to adopt such a course of splitting the trial under Section 317 of Cr.P.C. It was further held that where the proceedings against some accused persons have substantially progressed, the trial Court is justified in separating the trial so as to avoid unnecessary delay and prejudice. Reliance can also be placed upon ***Bhanumati Devi (Nath) v. State of Tripura, 2001 Cri.L.J. 3770***, wherein it was held by the High Court of Gauhati that in criminal proceedings, it is the accused who is tried and not the case as a whole and, therefore, separate trials are legally permissible where the circumstances so require. Similarly, in ***Allauddin Shah and another v. State of West Bengal, 1999 (4) AICLR 580***, the Calcutta High Court recognised the power of the criminal Court to separate trials and held that no accused has a vested right to insist upon a joint trial in all circumstances. It was further observed that separate trial can always be directed where continuation of joint proceedings is

likely to cause delay and prejudice.

9. In the present case, the learned trial Court has exercised its judicial discretion in a fair and reasonable manner. No material has been brought on record to demonstrate that the impugned order suffers from perversity, patent illegality or jurisdictional error warranting interference by this Court in exercise of its inherent jurisdiction. The apprehension expressed by learned counsel for the petitioner regarding possibility of conflicting judgments also does not impress this Court. Merely because separate trials are ordered would not *ipso facto* lead to inconsistent findings, particularly when the criminal law itself recognises the permissibility of separate trials in appropriate cases.

10. In view of the discussion made above, this Court is of the considered opinion that there is no infirmity much less illegality in the impugned order dated 23.04.2026 passed by the learned Chief Judicial Magistrate, Malerkotla. Hence, finding no merit in the petition, the same is hereby dismissed.

(MANISHA BATRA)
JUDGE

18.05.2026

Waseem Ansari

1. Whether speaking/ reasoned	:	Yes/No
2. Whether reportable	:	Yes/No