



CRM-M-38532-2025

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
225-2

CRM-M-38532-2025

Vedant . . . Petitioner
Versus
State of Punjab . . . Respondent

1.	Date when the judgment was reserved	27.01.2026
2.	Date when the judgment is pronounced	25.02.2026
3.	Date when the judgment is uploaded on the website	26.02.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof.	Not applicable.

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. R.S. Cheema, Sr. Advocate with
Ms. Tanu Bedi, Advocate,
Mr. Satish Sharma, Advocate and
Mr. Aashutosh Jerath, Advocate, for the petitioner.

Mr. Jastej Singh, Addl. AG, Punjab.

SANJAY VASHISTH, J.

1. Instant petition, under Section 528 of BNSS, 2023, has been filed for setting aside the impugned order dated 21.05.2025 (Annexure P-1), passed by learned Judge, Special Court, Ludhiana, whereby the application, dated 26.03.2025 (Annexure P-14), under Section 348 of BNSS, 2023 (erstwhile Section 311 of Cr.P.C.), filed by the prosecution for recalling PW-4: SI Naresh Kumar (Investigating Officer), has been allowed.
2. Petitioner – Vedant and one more person, namely, Kamaljeet

CRM-M-38532-2025

2

Kumar @ Kamal, being accused, are facing trial in case FIR No. 242, dated 05.10.2022, under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act', registered at Police Station STF, Phase-4, Mohali, District SAS Nagar.

Before registration of the FIR, a secret informant informed the police team headed by SI Naresh Kumar that accused, namely (i) Vedant (petitioner herein), and (ii) Kamaljeet Kumar @ Kamal, in connivance with (iii) Honey Kumar Goyal, were engaged in the business of selling narcotic drugs/pills without license and without bill in the area of Model Town, Ludhiana. It was further informed that on that day i.e. 05.10.2022, they would be coming on an Activa scooter, bearing registration No. PB-10-HU-2566, near Krishna Hospital, Model Town, Ludhiana, to supply intoxicant tablets to their customers/clients. The information being reliable was forwarded to the Police Station for registration of the FIR and, thus, the aforementioned criminal case came to be registered.

3. During investigation, both the accused persons were noticed coming together on an Activa scooter. The driver disclosed his name as Vedant (petitioner), and the pillion rider disclosed his name as Kamaljeet Kumar @ Kamal. From the bag lying on the scooter, a total of 27,000 intoxicant tablets were recovered, i.e., Buprilex-N (3300 tablets) + Addnok-N (700) + Addnok-N (19000) + Addnok-N (4000) = 27,000 tablets (in total).

After completion of investigation, final report under Section 173(2) of Cr.P.C. [Section 193(3) of BNSS, 2023] was submitted on 09.03.2023, against the petitioner and co-accused Kamaljeet Kumar @ Kamal, whereas name of the third co-accused Honey Kumar Goyal was

CRM-M-38532-2025

3

mentioned in Column No. 2. The role of one more accused, namely, Dr. Amit Bansal, was also investigated, however, no challan against him was presented.

Subsequent thereto, supplementary challan, under Section 173(8) of Cr.PC [Section 193(9) of BNSS, 2023] was also filed on 17.04.2023, against third co-accused Honey Kumar Goyal, charge-sheeting him under Section 27 of the NDPS Act. Dr. Amit Bansal, earlier booked under Section 29 of the NDPS Act, was discharged, because no cogent evidence against him was found. Total 10 prosecution witnesses have been examined as of now, i.e.;

- (i) PW1 ASI Makhan Singh;
- (ii) PW2 Inspector Balwinder Singh;
- (iii) PW3 ASI Mohd. Sadiq;
- (iv) **PW4 SI Naresh Kumar;**
- (v) PW5 ASI Rajesh Kumar;
- (vi) PW6 C. Gurmukh Singh;
- (vii) PW7 Ravinder Singh, Clerk, RTO Office;
- (viii) PW8 DSP Ajay Kumar;
- (ix) PW9 ASI Sukhdev Singh; and
- (x) PW10 Kaushlya Devi

4. On 26.03.2025, an application under Section 348 of BNSS, 2023 (Annexure P-14), was moved by the Additional Public Prosecutor, with a prayer to recall PW4 – SI Naresh Kumar (Investigating Officer of the case) for further examination-in-chief. In para No. 2 of the application it has been stated that though the said witness was examined earlier but inadvertently certain documents could not be put to him, and it would be necessary to recall him to question regarding the following aspects, as the same are very



important for just adjudication of the case:-

- (I) Disclosure statements of accused, dated 07.10.2022, wherein accused Vedant (Petitioner) has disclosed certain facts regarding Amit Bansal son of Subhash Bansal, Vasika No. 5381, dated 30.08.2016;
- (II) Lease deed executed between Ranjeet Singh, Manjeet Singh and Amit Bansal, regarding the proprietorship of Simran Hospital, situated at 242-L, Model Town, Ludhiana;
- (III) Regarding Activa Scooter, bearing registration No. PB-10-HU- 2566; and
- (IV) Inspection report prepared by the Drug Inspector of Joint inspection of M/s Simran Hospital.

5. By filing reply/objection to the said application, prayer was made for seeking dismissal of the application under Section 348 of BNSS, 2023. However, considering the aspects in its entirety, vide impugned order dated 21.05.2025 (Annexure P-1), said application moved by the respondent – State (Additional Public Prosecutor) was allowed by the learned Trial Judge, by observing as under:-

“5. xxx xxx xxx xxx xxx
 xxx xxx xxx xxx

The object of the said provision thus is to elicit the truth from the witness. Judicial record reflects that accused Vedant had suffered a disclosure statement in which he had talked about two more persons namely Amit Bansal and his Manager Honey Goyal who was running his drug de-addiction centre Simran Hospital out of whom Honey Goyal was placed by investigating agency in column no.2 of report under Section 173 Cr.P.C and the other one Amit Bansal was exonerated by investigating agency observing that no evidence was on record to connect him with co-accused. It is noteworthy here that a huge recovery of contraband was effected from the Activa which was allegedly in possession of the accused which was owned by Simran Hospital and as per the lease deed dated 05.12.2021 the premises of the said hospital was taken on lease

CRM-M-38532-2025

5

by the said Amit Bansal. When PW4 was examined the documents relating to the said facts duly mentioned in challan could not be proved by him on record which are essential to connect accused with the vehicle from which recovery was effected which belonged to some one else. On the other hand, no prejudice will be caused to the accused if PW4 is recalled as the accused would get enough opportunity to cross-examine the witness. It was argued by learned counsel for accused Vedant that disclosure statements were not admissible in evidence qua the facts other than the ones leading to any discovery/recovery. The probative value of any evidence/document would be considered at the appropriate stage of trial and the application of prosecution cannot be straight away dismissed on this ground at this stage. Hence the case law relied upon by learned counsel for accused Vedant as such is not applicable to the facts of present case and do not lend any support to contentions raised by him.

6. *In view of discussion made above, instant application stands allowed.”*

This is how the instant petition has been filed by accused Vedant (petitioner herein), primarily on the ground that by recording examination-in-chief again of the Investigating Officer, i.e., SI Naresh Kumar, nothing new can be brought on record as all such evidence is already available on record.

SUBMISSIONS BY LEARNED SENIOR COUNSEL REPRESENTING THE PETITIONER:-

6. It is argued that Section 337 being part of **CHAPTER XXVI (GENERAL PROVISIONS AS TO INQUIRIES AND TRIAL)** gives power to the Court with regard to the framing of charge, if such an accused is facing trial before the Court. Allowing of the application under Section 348 of BNSS, 2023, would not give any permission to frame any new charge or creation of an evidence against the petitioner – Vedant or the accused already facing trial. While submitting so, learned Senior counsel refers the

CRM-M-38532-2025

6

contents of the application, wherein, nothing has been pleaded by the Public Prosecutor. Rather, the application has been moved to prove the same facts, which allegedly were disclosed by petitioner – Vedant in his disclosure statement in regard to one person Dr. Amit Bansal, who is not even an accused before the Trial Court, having been not charge-sheeted. Therefore, inherent purpose of Chapter XXVI, containing the protection of Section 348 of BNSS, 2023, has to be understood and then applied for an accused, who is already before the Court. Whereas, accused – Dr. Amit Bansal, has already been discharged by the police, after conducting investigation. Thus, application, dated 26.03.2025 (Annexure P-14), is in contravention of the provisions of Chapter XXVI of BNSS, 2023. Therefore, nothing new can be proved on record by producing PW4 – SI Naresh Kumar, viz-a-viz the accused *qua* whom the trial is going on.

7. Further argued that the application has been moved at such a belated stage, when prosecution had already closed its evidence and the proceeding was fixed for recording of the statement of accused under Section 351 of BNSS, 2023. By moving such application at such a belated stage or allowing the same by the learned Trial Court, prosecution cannot be permitted to enlarge the scope of the trial because, basically, power is vested with the Court only for the purpose of obtaining the best and legally admissible evidence in the perspective of the ongoing trial, on the basis of the charges framed against the accused before it. Application, denotes that prosecution wants to bring the facts on record, which will enable it to summon Dr. Amit Bansal as an additional accused, as the main accused.

8. Further argued that while allowing the application, learned Trial

CRM-M-38532-2025

7

Court has referred to the discovery of contraband from a two wheeler (Activa scooter), owned by Simran Hospital and further highlighted the disclosure of facts by the accused already facing trial, implicating Dr. Amit Bansal and Manager – Honey Kumar Goyal in his statement.

Since, Dr. Amit Bansal is not a charge-sheeted accused, before allowing of application under Section 348 of BNSS, 2023, to bring on record the facts *qua* Dr. Amit Bansal, is against the basic spirit of Chapter XXVI.

9. Learned Senior counsel further argued that there was no such necessity for the Court to allow the application under Section 348 of BNSS, 2023, as in no way any charge can be framed against the accused facing trial including the accused – Kamaljeet Kumar @ Kamal, whose disclosure statement dated 27.10.2022, already stands proved by PW9 – ASI Sukhdev Singh as Ex.PW3/13.

Even lease-deed with respect to the property in favour of Simran Hospital already stands proved by PW10 – Kaushlya Devi, owner of the premises in question. Said rent-deed is already on record as Ex.PW10/2.

Similarly, PW7 – Ravinder Singh, Clerk RTO office, already proved the ownership of Activa scooter in the name of Simran Hospital, by producing document Ex. PW7/A.

Thus, broadly, it was being argued that application moved under Section 348 of BNSS, 2023, is completely misconceived, because the evidence to the effect has already been led on all the aspects on the case record, before trial Court.

10. Further argued that it is beyond controversy that the prosecution has itself planned to utilize the evidence, sought to be brought on record for



CRM-M-38532-2025

8

an entirely different purpose, namely, to make out a case against Dr. Amit Bansal and then to get him summoned, who already stood discharged. Thus, allowing of application is nothing but enlarging the scope of Chapter XXVI and the very purpose of the provision under Section 348 of BNSS, 2023.

Therefore, learned Senior counsel for the petitioner prayed for setting aside of the impugned order dated 21.05.2025 (Annexure P-1), same being wholly unwarranted in the perspective of the present trial.

SUBMISSIONS BY LEARNED STATE COUNSEL:

11. On the other hand, learned State counsel while arguing regarding sustainability of the impugned order dated 21.05.2025 (Annexure P-1), passed by the learned Trial Court, and opposing the arguments advanced by learned Senior Counsel for the petitioner, submitted that the provision of Section 348 of BNSS, 2023 gives ample power to the Court that can be exercised at any stage during inquiry/trial by recalling or re-examination of any person already examined, even by summoning any other person as a witness, in case is found that such evidence would be essential for the **just decision of the case**.

12. Learned State counsel further argued that may be, the evidence which is being sought to be put to PW4 – SI Naresh Kumar (Investigating Officer of the case) by recalling him for examination-in-chief, is already there on record, still it is imperative for the prosecution that the same is also proved in the words of the investigating officer of the case, who collected such material facts during investigation. Unless, it is being deposed by the said witness, it may be taken as missing of link evidence in the case.

13. Lastly, learned State counsel submitted that, in fact, accused –

CRM-M-38532-2025

9

Vedant (petitioner herein), has got instituted that instant petition as a proxy petitioner, with the sole purpose of safeguarding the interests of someone else, who may not be an accused before the Court as on date. One fails to understand as to why and for what purpose the petitioner is trying hard to deprive the Court from bringing the factual position on record, which was created during the course of investigation by a particular Investigating Officer, viz-a-viz, some other accused/person also. Prosecution is duty bound to bring on record all such facts, even if some one has been left out inadvertently, or left it to the wisdom of the Court to exercise it's power vested under Chapter XXVI to allow or not, looking at the interest of justice or essential to the just decision of the case.

Learned State counsel, thus, prayed for dismissal of the instant petition.

ANALYSIS & FINDINGS:-

14. I have considered the record and the appended documents with the petition, apart hearing learned Senior counsel for the petitioner as well as well as learned State counsel representing the respondent – State.

15. In the application dated 26.03.2025 (Annexure P-14), under Section 348 of BNSS, 2023, a precise contention is that PW4 – SI Naresh Kumar, Investigating Officer, during his examination inadvertently could not mention about the documents, as same were not put to him. The disclosure statement, dated 17.10.2022, wherein, accused – Vedant (petitioner herein) disclosed certain facts regarding Dr. Amit Bansal; Vasika No. 5381, dated 30.08.2016; lease deed executed between Ranjeet Singh, Manjeet Singh and Amit Bansal regarding the proprietorship of Simran Hospital, situated at

CRM-M-38532-2025

10

242-L, Model Town, Ludhiana; regarding Active Scooter, bearing registration No. PB-10-HU- 2566; and inspection report prepared by the Drug Inspector of Joint inspection of M/s Simran Hospital

16. First of all, this Court would like to look at the disclosure statements, dated 05.10.2022 and 07.10.2022, of petitioner – Vedant, recorded by none else, but **PW4 – SI Naresh Kumar**, which reads as under:-

“DISCLOSURE STATEMENT U/S 27 OF EVIDENCE ACT

In the presence of following witness, during enquiries, accused Vedant son of Ajay Kumar made disclosure statement before me that, “Some days ago, my Senior manager Hunny Goel son of Bhola Ram, resident of Barnala had got procured a parcel of intoxicating tablets and he had told me and Kamaljit Kumar alias Kamal, who works with me as Lab Attendant in Simran Drug De-addiction Centre, 242-L, Model Town, Ludhiana, to keep this parcel with you at your rented Kothi at New Kartar Nagar, Model Town, Ludhiana by hiding it at some confidential place. We three will equally divide the profit after selling these intoxicating tablets. Then on the saying of Senior Manager Hunny Goel, under the lure of money, I and Kamaljit Kumar alias Kamal brought the parcel on the activa of the company to our rented Kothi No.182/32-A, Street No.6, New Kartar Nagar, Ludhiana provided by the company and had hid the same in the clothes lying in the double-bed of our room, which fact is known to me and Kamaljit Kumar alias Kamal only. I can got recovered that parcel of intoxicating tablets upon my identification by visiting the place with you.” On this, the disclosure statement of accused Vedant above under Section 27 of the Evidence Act has been typewritten, which was read over to accused Vedant, who the statement, after hearing and reading admitted it to be correct. After getting the print out of his disclosure statement with the assistance of printer, the signatures of the accused and testimony of the witnesses are being appended on the same.

Accused Vedant above
Sd/-

Witness: 1. ASI Mohammed Sadiq No. 614/Ldh.
Special Task Force, Ludhiana Range
Sd/-
2. ASI Paramjit Singh No. 462/Ldh.
Special Task Force, Ludhiana Range

CRM-M-38532-2025

11

Sd/-

Sd/- Naresh Kumar, SI
Special Task Force,
Ludhiana Range
Dated: 05.10.2022

Attested by
Sd/- Ajay Kumar
Deputy Supdt. Of Police,
Special Task Force,
Ludhiana Range
Dated: 05.10.2022”

On 07.10.2022, another disclosure statement was recorded by
SI Naresh Kumar, which reads as under:-

“DISCLOSURE STATEMENT U/S 27 OF EVIDENCE ACT

In the presence of following witness, the intense enquiries made during police remand, accused Vedant son of Ajay Kumar made disclosure statement before me that, "Amit Bansal son of Subhash Bansal, resident of Sector 28-A, Chandigarh, Owner of Simran Drug De-Addiction Centre, Model Town, Ludhiana, had provided an Activa Scooter bearing No.PB-10HU-2566 white coloured to me and Kamaljit Kumar alias Kamal, for doing the works of Drug De-addiction Centre, Model Town and for commuting from Kothi, New Kartar Nagar, Model Town, Ludhiana and upon receiving the of calls from different mobile numbers and whatsapp calls by his customers regarding purchase tablets, Hunny Goel son of Bhola Ram, resident of Barnala, District Barnala used to send me and Kamaljit Kumar alias Kamal to deliver tablets of BUPRILEX-N and Addnok-N, as per the demands of the customers, at the place told by the customers, on the above numbered active scooter of the hospital and I and Kamaljit alias Kamal used to deliver the tablets to his customers after reaching at the place told by him, as per the identification narrated by him. After receiving payment from the customers for the tablets, we used to handover the same to Hunny Goel. He used to pay us our due commission. Apart from this, Hunny Goel used to get placed the tablets of BUPRILEX-N and Addnok-N procured without bill, at the kothi taken on lease at Mohalla New Kartar Dhuri Line, Nagar, I and Ludhiana through us. Kamaljit alias Kamal were also residing in that kothi. Hunny Goel had promised to both of us for paying heavy commission apart from salary to under the lure of supplying maximum tablets of us BUPRILEX-N and Addnok-N to the customers outside the hospital. Hunny Goel used to send the tablets of BUPRILEX-N and Addnok-N with bill and without bill, through different transporters, to the Drug De- Addiction Centre, Model Town, Ludhiana. They used

CRM-M-38532-2025

12

to keep tablets with bills at Drug De-addiction Centre and tablets without bill at above rented house. Hunny Goel used to say to us that he has talked with owner Amit Bansal, you do not worry, I will take care of everything and will also get your salary increased from the owner, on which, the disclosure statement of accused Vedant above under Section 27 of the Evidence Act has been typewritten, which was read over to accused Vedant, who after hearing and reading the statement, admitted it to be correct. After getting the print out of his memo disclosure statement with the assistance of printer, the signatures of the accused and testimony of the witnesses are being appended on the same.

*Accused Vedant above
Sd/-*

*Witness: 1. ASI Sukhdev Singh No. 2402/Ldh.
Special Task Force, Ludhiana Range
Sd/-*

*2. Senior Constable Kuldeep Singh No. 487/Ldh.
Special Task Force, Ludhiana Range
Sd/-*

*Sd/- Naresh Kumar, SI
Special Task Force,
Ludhaiana Range
Dated: 07.10.2022”*

17. Similarly, other co-accused Kamaljeet Kumar @ Kamal also got recorded his disclosure statements on 05.10.2022 and 07.10.2022, which were also recorded by PW4 – SI Naresh Kumar, being Investigating Officer of the case.

For reference, disclosure statements dated 05.10.2022 and 07.10.2022, made by co-accused Kamaljeet Kumar @ Kamal, are also reproduced here-under:-

(i) Disclosure statement dated 05.10.2022

“DISCLOSURE STATEMENT U/S 27 OF EVIDENCE ACT

In the presence of below mentioned witnesses, during enquiry, accused Kamaljit Kumar alias Kamal son of Tarlok Chand has

CRM-M-38532-2025

13

made disclosure statement before me that, "Some days ago, my Senior manager Hunny Goel son of Bhola Ram, resident of Barnala had got procured a parcel of intoxicating tablets and he had told me and Vedant, who works with me as Assistant Manager in Simran Drug De-addiction Centre, 242-L, Model Town, Ludhiana, to keep this parcel with you at your rented Kothi at New Kartar Nagar, Model Town, Ludhiana by hiding it at some confidential place. We three will equally divide the profit after selling these intoxicating tablets. Then on the saying of Senior Manager Hunny Goel, under the lure of money, I and Vedant brought the parcel on the active of the company to our rented Kothi No.182/32-A, Street No.6, New Kartar Nagar, Ludhiana provided by the company and had hid the same in the clothes lying in the double-bed of our room, which fact is known to me and Vedant only. We can get recovered that parcel of intoxicating tablets upon our identification by visiting the place with you." On this, the above disclosure statement of accused Vedant under Section 27 of the Evidence Act has been typewritten, which was read over to accused Kamaljit Singh alias Kamal, who after hearing and reading the statement, admitted it to be correct. After getting the print out of his disclosure statement with the assistance of printer, the signatures of the accused and testimony of the witnesses are being appended on the same.

*Accused Kamaljeet Singh
alias Kamal above
Sd/-*

*Witness: 1. ASI Mohammed Sadiq No. 614/Ldh.
Special Task Force, Ludhiana Range
Sd/-*

*2. ASI Paramjit Singh No. 462/Ldh.
Special Task Force, Ludhiana Range
Sd/-*

*Sd/- Naresh Kumar, SI
Special Task Force,
Ludhaiana Range
Dated: 05.10.2022*

*Attested by
Sd/- Ajay Kumar
Deputy Supdt. Of Police,
Special Task Force,
Ludhiana Range
Dated: 05.10.2022"*

(ii) Disclosure statement dated 07.10.2022

"DISCLOSURE STATEMENT U/S 27 OF EVIDENCE ACT



In the presence of following witness, on the intense enquiries made during police remand, accused Kamaljit Kumar alias Kamal son of Tarlok Chand made disclosure statement before me that, "Amit Bansal son of Subhash Bansal, resident of Sector 28-A, Chandigarh, Owner of Simran Drug De-Addiction Centre, Model Town, Ludhiana, had provided an Activa Scooter bearing No.PB-10HU-2566 white coloured to me and Vedant, for doing the works of Drug De-addiction Centre, Model Town and for commuting from Kothi, New Kartar Nagar, Model Town, Ludhiana and upon receiving the calls from different mobile numbers and whatsapp calls by his customers regarding purchase of tablets, Hunny Goel son of Bhola Ram, resident of Barnala, District Barnala used to send me and Vedant to deliver tablets of BUPRILEX-N and Addnok-N, as per the demands of the customers, at the place told by the customers, on the above numbered active scooter of the hospital. I and Vedant used to deliver the tablets to his customers after reaching at the place told by him, as per the identification narrated by him. After receiving payment from the customers for the tablets, we used to handover the same to Hunny Goel. He used to pay us our due commission. Apart from this, Hunny Goel used to get placed the tablets of BUPRILEX-N and Addnok-N procured without bill, at the kothi taken on lease at Mohalla New Kartar Nagar, Dhuri Line, Ludhiana through us. I and Vedant were also residing in that kothi. Hunny Goel had promised to both of us for paying heavy commission apart from salary to us under the lure of supplying maximum tablets of BUPRILEX-N and Addnok-N to the customers outside the hospital. Hunny Goel used to send the tablets of BUPRILEX-N and Addnok-N with bill and without bill, through different transporters, to the Drug De-Addiction Centre, Model Town, Ludhiana. They used to keep tablets with bills at Drug De-addiction Centre and tablets without bill at above rented house. Hunny Goel used to say to us that he has talked with owner Amit Bansal, you do not worry, I will take care of everything and will also get your salary increased from the owner, on which, the disclosure statement of accused Vedant above under Section 27 of the Evidence Act has been typewritten, which was read over to accused Kamaljit Kumar alias Kamal, who after hearing and reading the statement, admitted it to be correct. After getting the print out of his memo of disclosure statement with the assistance of printer, the signatures of the accused and testimony of the witnesses are being appended on the same.

*Accused Kamaljit Kumar
alias Kamal above
Sd/-*

*Witness: 1. ASI Sukhdev Singh No. 2402/Ldh.
Special Task Force, Ludhiana Range*

CRM-M-38532-2025

15

Sd/-

2. *Senior Constable Kuldeep Singh No. 487/Ldh.
Special Task Force, Ludhiana Range*

Sd/-

*Sd/- Naresh Kumar, SI
Special Task Force,
Ludhaiana Range
Dated: 07.10.2022”*

18. Though the aforementioned disclosure statements have been proved by PW3 – Mohd. Sadiq in his statement and also by PW9 – ASI Sukhdev Singh, when they appeared in the witness-box as witnesses thereof, however, it is an admitted position that all the facts mentioned in those disclosure statements were recorded by none else but PW4 – SI Naresh Kumar. However, while appearing in the witness-box, he failed to discharge his duty by not mentioning much about the facts disclosed in the said disclosure statements by the aforesaid accused.

19. It is also apposite to mention here that name of the third accused in the case, i.e. Honey Kumar Goyal, was initially mentioned in Column No.2. Thereafter, supplementary challan, dated 17.04.2023, against him was filed and he was charge sheeted under Section 27 of the NDPS Act. However, after confession of guilt, the said third accused was sentenced to undergo 15 days’ rigorous imprisonment, i.e., the period already undergone by him, along with a fine of Rs. 5,000/-, and in default of payment of fine, to further undergo simple imprisonment for a period of one week, vide order dated 28.07.2023. After the fine amount was paid, he was ordered to be released by the Court.

It would not be out of place to notice here that PW4 - SI Naresh

CRM-M-38532-2025

16

Kumar, who was the Investigating Officer of the case *qua* accused Honey Kumar Goyal, submitted the supplementary challan, but gave a clean chit to Dr. Amit Bansal merely by observing that *no evidence was available against him*.

Activa Scooter, bearing No. PB-10-HU-2566, was found to be registered in the name of Simran Hospital, which is being run by none else than Dr. Amit Bansal. It was also found that the owner of Simran Drug De-addiction Centre, Model Town, Ludhiana, is Dr. Amit Bansal. The rent deeds with regard to the said hospital are also on record, which facts are now sought to be brought out through the testimony of SI Naresh Kumar, Investigating Officer.

Though this is not the stage to examine whether Dr. Amit Bansal was given a clean chit rightly or wrongly, yet the fact remains that all these aspects were disclosed by the accused in their disclosure statements, which were penned down by none else but SI Naresh Kumar. Therefore, the facts stated therein, recorded in the form of disclosure statements before the Investigating Officer, were required to be stated in evidence, which he failed to mention while appearing in examination-in-chief.

In the impugned order also, learned Trial Court has taken note of the fact that in the disclosure statement of accused Vedant, he referred two more persons, namely, Amit Bansal and Manager Honey Goyal, who were running the Drug De-addiction Centre, i.e., Simran Hospital. A huge recovery of 27,000 tablets was effected from the Activa Scooter, which was in possession of the accused and was owned by Simran Hospital, run by Dr. Amit Bansal.

CRM-M-38532-2025

17

20. From the impugned order, it also becomes clear that documents relating to these facts could not be proved by PW4 on record, which, in fact, are essential to connect the accused with the vehicle from where recovery of contraband was effected, i.e., Activa scooter, bearing No. PB-10-HU-2566, which belongs to someone else.

The concept of Section 348 of BNSS, 2023 (Section 311 Cr.P.C.), i.e. calling a witness again to depose certain facts which, though already on record, were omitted to be stated in his own testimony, cannot be termed as *“recalling of a witness to fill up lacuna in the case of the prosecution”*. Even this is not the argument of the petitioner herein that a *lacuna* is being filled up. Rather, the stand of the petitioner is that the facts which the prosecution now proposes to bring on record through SI Naresh Kumar have already been proved by other witnesses.

This Court fails to understand that being so, why the impugned order has been assailed by the petitioner, and, therefore, it appears to be a proxy litigation filed by the petitioner – Vedant by speculating the future course of action, which may or may not be initiated by the Court qua any other person, including Dr. Amit Bansal.

21. This Court also feels that by calling the witness, the learned Trial Court appears to have realized that on the aspect sought to be proved, examination of SI Naresh Kumar is essential, and accordingly ordered his recall. Even by allowing the application, there would be no change in the nature of the case against any party, as the documents are already on record. The primary object is that *‘the power is to be exercised for the just decision of the case as a whole and not merely qua the accused presently before the*

CRM-M-38532-2025

18

Court’.

While exercising such power, the Court is empowered to examine the situation holistically and assess the implications of allowing such a prayer, which may affect the final adjudication of the case. Under Section 348 of BNSS, 2023, the expression “essential to the just decision of the case” implies not only the rights of the accused before the Court but also encompasses a broader perspective, including the possibility that any other person, if found involved or wrongly exonerated, he could also be called to join the proceedings in the case, so that the just decision of the case be done by such Court.

Thus, it can be concluded safely that the provision of Section 348 of BNSS, 2023 can be exercised at any stage during inquiry/trial by recalling or ex-examination of any person already examined, even by summoning any other person as a witness, if such evidence appears to be essential to the **just decision of the case**. Therefore, arguments viz-a-viz interest of the party facing trial accused before the Court, is rather misconceived concept because the power is exercisable for the just decision of the case as a whole and not *qua* the accused only, who is/are before it.

22. In the present proceedings, this Court would refrain from going into the aspect that SI Naresh Kumar, being the Investigating Officer, did not file challan against one of the accused, namely, Dr. Amit Bansal, and merely observed in the final report that no connecting evidence was available against him. Further, while appearing in the witness-box, he did not state anything regarding the facts mentioned in the disclosure statements and other aspects, which are now sought to be proved by recalling him. Any such



CRM-M-38532-2025

19

observation at this stage may prejudice the rights of either party.

23. The views expressed by this Court are fortified from the judgment of this Court in the case of **Gurdit Singh and others v. State of Punjab** (CRM-M-69179-2025, decided on 09.12.2025). The relevant paragraph No.11 of ***Gurdit Singh's case (supra)*** is reproduced here-under:-

*"11. Similarly, this Court in **Rajesh Kumar @ Rajesh Chauhan v. Gurmeet Singh and another** (supra), while referring to the judgments of the Hon'ble Apex Court in **Rajaram Prasad Yadav v. State of Bihar and another**, 2013(3) RCR (Crl.) 726, and **Manan SK v. State of West Bengal**, (2014) 13 SCC 59, has observed as under:-*

*"12. A three Judges Bench of Hon'ble Supreme Court also examined the aforesaid issue in 2013 (3) RCR (Criminal) 726 **Rajaram Prasad Yadav v. State of Bihar and another**. In the said case, the trial Court disallowed the application filed by State under Section 311 of the Code of Criminal Procedure (Cr.P.C.), to re-examine PW-9, the informant. The High Court reversed the order and allowed the said application. While discussing a plethora of judgements, the broad principles with regard to invoking section 311 Cr.PC were culled out as under:*

"23. From a conspectus consideration of the above decisions, while dealing with an application under Section 311 Criminal Procedure Code read along with Section 138 of the Evidence Act, we feel the following principles will have to be borne in mind by the Courts:

a) Whether the Court is right in thinking that the new evidence is needed by it? Whether the evidence sought to be led in under Section 311 is noted by the Court for a just decision of a case?

b) The exercise of the widest discretionary power under Section 311 Criminal Procedure Code should ensure that the judgment should not be rendered on inchoate, inconclusive speculative



presentation of facts, as thereby the ends of justice would be defeated.

c) If evidence of any witness appears to the Court to be essential to the just decision of the case, it is the power of the Court to summon and examine or recall and re-examine any such person.

d) The exercise of power under Section 311 Criminal Procedure Code should be resorted to only with the object of finding out the truth or obtaining proper proof for such facts, which will lead to a just and correct decision of the case.

e) The exercise of the said power cannot be dubbed as filling in a lacuna in a prosecution case, unless the facts and circumstances of the case make it apparent that the exercise of power by the Court would result in causing serious prejudice to the accused, resulting in miscarriage of justice.

f) The wide discretionary power should be exercised judiciously and not arbitrarily.

g) The Court must satisfy itself that it was in every respect essential to examine such a witness or to recall him for further examination in order to arrive at a just decision of the case.

h) The object of Section 311 Criminal Procedure Code simultaneously imposes a duty on the Court to determine the truth and to render a just decision.

i) The Court arrives at the conclusion that additional evidence is necessary, not because it would be impossible to pronounce the judgment without it, but because there would be a failure of justice without such evidence being considered.

j) Exigency of the situation, fair play and good sense should be the safe guard, while exercising the discretion. The Court



should bear in mind that no party in a trial can be foreclosed from correcting errors and that if proper evidence was not adduced or a relevant material was not brought on record due to any inadvertence, the Court should be magnanimous in permitting such mistakes to be rectified.

k) The Court should be conscious of the position that after all the trial is basically for the prisoners and the Court should afford an opportunity to them in the fairest manner possible. In that parity of reasoning, it would be safe to err in favour of the accused getting an opportunity rather than protecting the prosecution against possible prejudice at the cost of the accused. The Court should bear in mind that improper or capricious exercise of such a discretionary power, may lead to undesirable results.

l) The additional evidence must not be received as a disguise or to change the nature of the case against any of the party.

m) The power must be exercised keeping in mind that the evidence that is likely to be tendered, would be germane to the issue involved and also ensure that an opportunity of rebuttal is given to the other party.

n) The power under Section 311 Criminal Procedure Code must therefore, be invoked by the Court only in order to meet the ends of justice for strong and valid reasons and the same must be exercised with care, caution and circumspection. The Court should bear in mind that fair trial entails the interest of the accused, the victim and the society and, therefore, the grant of fair and proper opportunities to the persons concerned, must be ensured being a constitutional goal, as well as a human right."

XX XXX XX XXX

16. The judgment pressed into service by learned counsel for the petitioner i.e. Mannan Sk.



And others v. State of West Bengal and another 2014(13) SCC, 59 was a case where the trial Court had dismissed the application moved by prosecution under section 311 Cr.P.C. but the order was reversed by the High Court. The matter pertained to offence under Section 302 IPC wherein the Investigating Officer during his cross-examination has stated that he has recorded the statement of the deceased before his death, but no such statement had in fact been brought on record. The prosecution had moved an application under Section 311 Cr.P.C. at the stage when the matter was fixed for arguments. The purpose of recalling the witness of the prosecution was to place on record a statement which was virtually in the nature of dying declaration. The importance of a dying declaration in a case where there is no direct evidence can hardly be undermined. Further, in the said case accused were found to be aware of the said statement and had duly cross-examined the Investigating Officer in this regard and it was under these circumstances Hon'ble the Supreme Court while affirming order of High Court observed that it was a case of oversight that the document could not be placed on record earlier and not a case of filling up lacuna.

17. *However, even in Mannan's case, the broad view taken by Apex Court is in tune with the ratio of Rajaram's case (Supra). The Supreme Court of India in Mannan's case (Supra) held as under:*

"10. The aim of every court is to discover truth. Section 311 of the Code is one of many such provisions of the Code which strengthen the arms of a court in its effort to ferret out the truth by procedure sanctioned by law. It is couched in very wide terms. It empowers the court at any stage of any inquiry, trial or other proceedings under the Code to summon any person as a witness or examine any person in attendance, though not summoned as witness or recall and re-examine already examined witness. The second part of the Section uses the word 'shall'. It says that the court shall summon and examine or recall or re-examine any such person if his evidence appears to it to be essential to the just decision of the case.



The words 'essential to the just decision of the case' are the key words. The court must form an opinion that for the just decision of the case recall or reexamination of the witness is necessary. Since the power is wide it's exercise has to be done with circumspection. It is trite that wider the power greater is the responsibility on the courts which exercise it. The exercise of this power cannot be untrammelled and arbitrary but must be only guided by the object of arriving at a just decision of the case. It should not cause prejudice to the accused. It should not permit the prosecution to fill-up the lacuna. Whether recall of a witness is for filling-up of a lacuna or it is for just decision of a case depends on facts and circumstances of each case. In all cases it is likely to be argued that the prosecution is trying to fill-up a lacuna because the line of demarcation is thin. It is for the court to consider all the circumstances and decide whether the prayer for recall is genuine."

XX XXX XX XXX
XX XXX XX XXX

24. As already noticed above, while the Hon'ble Supreme Court has consistently held that Court has vast powers to summon or recall any witness with the aid of Section 311 Cr.P.C. at any stage but such application can only be allowed if the Court comes to a conclusion that it is absolutely necessary to do so for just decision in the matter. Such application is neither to be allowed to fill up lacuna nor can be allowed to be made as a tool to delay trial. While this Court cannot dispute that the right to fair trial is a crucial and precious right of the accused, but so is the complainant's right to a fair trial which requires that they should not unnecessarily be harassed. Ensuring a fair trial can not be interpreted to mean that the accused has to be afforded opportunities of recalling witnesses for further cross-examination at the mere asking. The case of an accused has to be meritorious where such prayer is made. The Hon'ble Apex Court in case of State (NCT of Delhi) v. Shiv Kumar Yadav (2016) 2 SCC 402 had emphasized that fairness of a trial has to be seen, not only from the perspective



CRM-M-38532-2025

24

of accused, but also of the victim and society. Thus, this Court also has a duty to ensure an expeditious and fair trial, preventing misuse of such applications for delaying the proceedings before the learned Trial Court.”.”

24. As a sequel to above discussion, I do not find any illegality, infirmity or any defect in the impugned order dated 21.05.2025 (Annexure P-1), passed by the learned Trial Court, warranting any interference by this Court.

Accordingly, the **instant petition fails and the same is dismissed.**

(SANJAY VASHISTH)
JUDGE

February 25, 2026
J.Ram

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